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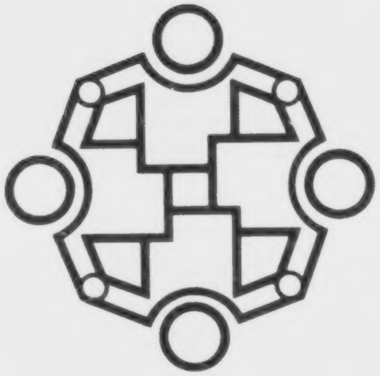
A Preliminary National Assessment of The Status Offender and The Juvenile Justice System:

Role Conflicts, Constraints, and Information Gaps



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A Preliminary National Assessment of Child Abuse and Neglect and the Juvenile Justice System: The Shadows of Distress.

A Preliminary National Assessment of the Status Offender and the Juvenile Justice System: Role Conflicts, Constraints, and Information Gaps.

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U.S. Department of Justice
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National Institute for Juvenile Justice and Delinquency Prevention

Reports of the National Juvenile Justice Assessment Centers

A Preliminary National Assessment of The Status Offender and The Juvenile Justice System:

Role Conflicts, Constraints, and Information Gaps

by
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April 1980

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FOREWORD

Since passage of the Juvenile Justice and Delinquency Prevention Act of 1974 (as amended), there has been a concerted effort on the part of the National Institute of Juvenile Justice and Delinquency Prevention (NIJJDP) and the various States to improve the handling of the juvenile status offender. Progress has been hindered by a general lack of reliable information concerning these status offenders and related efforts of the juvenile justice system.

It is hoped that this assessment of the current state of knowledge concerning the status offender and the juvenile justice system will provide policymakers, planners, and operational personnel with new insights into what is currently known and what future directions need to be taken.

We appreciate the work of those who gathered and synthesized the vast amount of statistical and qualitative information. By sorting out and analyzing this information in a manner that has clarified issues, they have made a significant contribution to the field.

James C. Howell, Director
National Institute of Juvenile Justice and Delinquency Prevention

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The principal writer for this volume is David J. Berkman, assisted by Warren M. Fraser, John R. Sutton, and Charles P. Smith. General design, management, and technical editing of the volume were provided by Charles P. Smith and David J. Berkman.

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PREFACE

As part of the Assessment Center Program of the National Institute for Juvenile Justice and Delinquency Prevention, topical centers were established to assess delinquency *prevention* (University of Washington), the juvenile justice *system* (American Justice Institute), and *alternatives* to the juvenile justice system (University of Chicago). In addition, a fourth assessment center was established at the National Council on Crime and Delinquency to integrate the work of the three topical centers.

This report, "A Preliminary National Assessment of the Status Offender and the Juvenile Justice System: Role Conflicts, Constraints, and Information Gaps," has been developed by the American Justice Institute. It includes an assessment of the socio-legal development of the concept of the status offender, current legislative activities in the status offender area, statistical information regarding juvenile justice system processing of the status offender, selected status offender programs, and discussion of significant issues and their policy implications.

Other work of the American Justice Institute as part of the National Juvenile Justice System Assessment Center includes reports on serious juvenile crime, child abuse and neglect, and classification and disposition of juveniles.

In spite of the limitations of these reports, each should be viewed as an appropriate beginning in the establishment of a better framework and baseline of information for understanding and action by policymakers, operational personnel, researchers, and the public on how the juvenile justice system can contribute to desired child development and control.

Charles P. Smith, Director
National Juvenile Justice System Assessment Center

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EXECUTIVE SUMMARY

PURPOSE

This report has been prepared to present an assessment of the state of knowledge of the status offender and the juvenile justice system generally through October 1977 (unless otherwise indicated). Through a review of available information (e.g., studies, statistics, legislation), the report attempts to determine the major problems, issues, and needs in regard to juvenile justice system handling of the status offender. The assessment suggests significant policy implications and recommendations for future progress.

METHOD

The scope of the report was defined partly by the choice of available methods, and the methodology evolved as a result of the availability of data and subsequent adjustments to the research design. A workable level of controlled ambiguity in the assessment process was maintained since the current state of knowledge on status offenders was unknown. Therefore, the attempt was made to stay open to questions and views that emerged as the assessment progressed rather than predefining the report and possibly excluding important issues and concepts.

Four main strategies were employed in gathering information for this report: mail surveys were conducted of planning agencies and programs; specialized sources of statistical data were consulted; an extensive literature search was conducted; and personal interviews were undertaken.

KEY FINDINGS

Historical Precedents

During colonial times, the family was recognized as the primary force in instilling social values in children who were viewed essentially as personal property of their parents. With the evolution of American society into an industrialized world, ever-increasing pressures on family structures, particularly on socially and economically deprived classes such as immigrants and former slaves, reduced the capacity of the family to act as a stable socializing force. The State, seeking to protect the broad ranging interests of society as a whole, attempted to fill this vacuum by assuming the role of surrogate parent; e.g., through the juvenile court. At the present time, however, experimentation and experience seem to be leading to an awareness that the family must in fact serve as the primary socializing agent and that societal institutions, regardless of their level of sophistication, will never be able to adequately supplant this role. Against this historical backdrop, the present thrust of policy development and program orientation seems to be following two major themes. On the one hand, major emphasis is being placed upon the protection of the legal rights of children. This can be seen primarily as a response to the failure of the juvenile justice system to adequately treat and rehabilitate juveniles placed under its "protective custody." On the other hand, focus is being placed upon the strengthening and enhancing of the role and capacity of the family as the primary socializing agent.

Legislative Changes

Widespread variation exists among the States regarding both the content and application of laws relating to juvenile codes generally, and particularly in relation to the specific dimensions of status offender legislation. In addition to the variation in content and application of juvenile law, the implementation of legislation in this area suffers from the natural tendency of bureaucratic institutions to endeavor to maintain the status quo. Therefore, two major aspects of the legislative area need to be addressed. Recognizing the unique problems of individual jurisdictions, there needs to be a more uniform approach to policy development which protects both society's interests and the legal rights of children. Furthermore, for such policy to be viable, the resources and incentives must be adequate to ensure that the means for proper enforcement are available and appropriately applied.

Juvenile Justice System Processing

This assessment found that comprehensive information is generally not currently being collected by national or State agencies on the processing of status offenders by the juvenile justice system.

Based on the partial data available, it appears that status offenders continue to make up a significant proportion of juvenile arrests, intake, and juvenile court caseloads as well as detention and institutional populations. Although a large number of status offenders are diverted from formal processing at each step in the process, an equally large number are formally processed, detained, and eventually institutionalized. Variations in processing statistics may be more a consequence of changes in practice and policy in labeling than an actual increase or decrease of the status offense problem. Information was inadequate to determine whether the needs of status offenders were being adequately met by the the juvenile justice system. Although the data on status offenders is greatly deficient, it does tend to suggest that the status offender problem is still prevalent.

Juvenile Justice System Programs

There is a lack of knowledge and understanding regarding status offender programs (e.g., goals, objectives, activities, evaluations). This is partly due to an uncritical acceptance of approaches for dealing with the status offender as well as to the rapid implementation of plans to reduce the harm of formal processing, detention, and institutionalization without carefully developing practical and effective alternatives or determining constraints on unintended consequences. Although specific recommendations were impossible to derive from the information available, it is suggested that those who design programs to deliver services to status offenders develop these programs on well-grounded theory or evidence derived from other experience and, subsequent to further funding, substantiate the program's effectiveness and impact by quality evaluations and research.

RECOMMENDATIONS

The preliminary evidence indicates that the following issues concerning the juvenile status offender will require further attention if continued progress is to be made:

- conflicting philosophy and goals regarding the function and responsibility of juvenile justice agencies
- the role of the juvenile court within the State judicial system and its implications for regulations, policies, and procedures affecting juveniles
- the impact of legislative changes upon the police, the courts, community services, as well as juveniles and their families
- the impact of State legislative changes upon public and private funding
- potential conflicts between Federal, State, and local governments regarding strategies for dealing with the problems
- development of approaches which will reduce system resistance to change
- the need for more reliable and comprehensive information regarding juvenile justice system processing of status offenders and efforts to meet their needs
- the need for a national youth and family policy to set a framework for further progress in the status offender area.

The challenge to policymakers and administrators to solve the problems of conflicting roles, constraints, and information gaps regarding the needs and problems of status offenders remains massive. A continued commitment toward working together at the Federal, State, and local levels is required to creatively meet society's obligation to both the community and the individual who is involved in a supposed juvenile status offense.

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CHAPTER I

INTRODUCTION

PURPOSE

The controversy over how best to handle juveniles who commit "status offenses" presents a significant challenge to delinquency prevention and the juvenile justice field. The following definitions developed by the Council of State Governments (38, p. 41)* were used for this assessment:

> Status offense: Any offense committed by a juvenile that would not be a crime if committed by an adult, according to the statutes or ordinances of the jurisdiction in which the offense was committed, and which is specifically applicable to juveniles because of their status as a juvenile.
>
> Status offender: Any juvenile who is adjudicated to have committed an act that would not be a crime if committed by an adult, and includes any juvenile who is alleged or adjudicated to have violated a court order, whether during a period of community supervision or institutionalization, which was based upon an offense that would not have been a crime if committed by an adult.

The Juvenile Justice and Delinquency Prevention Act of 1974, as amended, mandates the deinstitutionalization of status offenders in all States receiving formula grants under the legislation. In passing the Act, Congress determined that "...an outright ban on institutionalizing status offenders would do more good for the great majority of status offenders who do not need institutions than harm for the very few who do" (51). Still, it has been recognized that the basic principle underlying the Act (i.e., the repugnance of incarcerating young persons who have not committed crimes) was rooted more in a philosophical perspective and a general appreciation that a major problem existed than in a well-documented empirical understanding of the numbers and characteristics of status offenders in detention, or of the specific manner in which they should be dealt with (51).

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*Sources can be found in the reference list located in the appendix. The first number refers to the numbered reference of the reference list. The second number refers to the page location within the reference item. Asterisks are used to identify comments located on the bottom of the page.

In recognition of the need for a sound data base on which to develop programmatic approaches, the National Institute for Juvenile Justice and Delinquency Prevention asked the National Juvenile Justice System Assessment Center to prepare an assessment of the state of knowledge in the status offender area. The major objectives of this assessment were to provide a preliminary view of what is happening in the field, to point out significant gaps and deficiencies in current practices, and to identify the implications of the findings in terms of future research and program action needs.

APPROACH

It was determined by the funding agency that this assessment should rely upon existing information and data collection operations. Since the quality and quantity of information on the status offender varied, the precise methods used in developing this report have gone through continuous refinement.*

As data collection efforts proceeded, discoveries concerning the availability and usefulness of information on juvenile status offenders also served to identify major deficiencies in current juvenile justice information sources. It was felt that the report should assess these deficiencies as well as current practice and knowledge of the status offender and system processing. Therefore, although this report was limited in scope and depth, it attempts to present an overview of the state of knowledge, major information deficiencies, and a discussion of selected issues, problems, and needs in relation to system processing of the status offender in order to provide an assessment that can be used to determine the direction and priorities required for further progress.

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*A detailed discussion of the methodology for the assessment is presented in the appendix.

ORGANIZATION OF THE REPORT

The report is divided into six chapters, including the Introduction. Chapter II, "Social-Legal Development of the Concept of the Status Offender," presents a background on the policies, practices, and controversies encompassing the nondelinquent and status offender. The materials for Chapter II are drawn from a review and analysis of relevant sociological and legal literature. Chapter III, "Current Legislative Activities in the Status Offender Area," discusses the implications of the 1974 Juvenile Justice and Delinquency Prevention Act (as amended) and relevant Federal and State legislative activities. The materials for Chapter III are drawn from a review and analysis of available literature, State statutes, and studies dealing with State and Federal legislative activities in the status offender area.

Chapter IV, "Status Offenders and Juvenile Justice System Processing," reviews the current state of knowledge regarding the characteristics of status offenders and their handling by the juvenile justice system. It is based upon information gathered from States, selected local jurisdictions, and other studies. In addition, the chapter reviews and summarizes the current state of statistical development on status offenders, as well as identifying major gaps and deficiencies in data gathering and analysis. Chapter V, "Status Offenders and Juvenile Justice System Programs," provides a conceptual analysis of status offender programs operated by the juvenile justice system, as well as an assessment of selected programs representing each type of system program. The goals, objectives, activities, and evaluations of system status offender programs are discussed in relation to the needs of status offenders and the system. The descriptions, analyses, and assessments of selected programs are based upon information supplied by jurisdictions and program personnel as well as findings of relevant studies. Chapter VI, "Summary, Issues, and Policy Implications," presents a summary of each chapter and a discussion of selected major issues and their implications for policy in relation to the handling of the status offender by the juvenile justice system.

CHAPTER II

SOCIAL-LEGAL DEVELOPMENT OF THE CONCEPT OF THE STATUS OFFENDER

INTRODUCTION

The purpose of this chapter is to provide a historical context for the current debate concerning status offenders. While the status offender label itself is of fairly recent origin, laws and organizational arrangements aimed specifically at the regulation of behaviors which would now be considered a status offense date back to colonial times.

Controversy over the status offender issue arises from two conceptually opposed views of deviance involving the child, the family, and the State. The first concept, incorporated in colonial law, was the product of Puritan social thought. This perspective held that the family was the control agent over the deviant behavior of the child. The approach attempted to eradicate the inherent evils of childhood through stringent disciplinary measures. The second concept is the view of society that emerged in the so-called Enlightenment period. In this view, children are seen as the product of their environmental surroundings, and evil is not looked upon as an innate characteristic of youth.

Slavery, waves of immigration, industrialization, and the evolution of federalism, particularly in the areas of child labor and employment regulation, are other significant influences which have affected American attitudes toward children and the family, as well as current societal responses to deviant juvenile behavior. Although the rather limited scope of this assessment precludes an in-depth coverage of these areas, further study of the historical antecedents of contemporary juvenile justice issues would provide a more thorough understanding and appreciation of present affairs (1).

The development of the concepts of childhood deviance will be sketched in terms of four major historical periods: the Puritan Period, the Refuge Period, the Juvenile Court Period, and the Era of Juvenile Rights.

THE MAJOR HISTORICAL PERIODS

The Puritan Period (1646-1824)

The role of the child in Puritan society and the legal means by which children's behavior was regulated were both congruent with the needs of a struggling agricultural society. Child, parent, and State existed in a relatively unambiguous hierarchical relationship that sought to assure both the maintenance of necessary economic roles and the efficient socialization of the young into adult social responsibilities.*

The first status offense law in North America was the Massachusetts Stubborn Child Law. This statute prescribed severe punishments for juveniles over sixteen years old who were disobedient toward their parents, for rude or disorderly children, and for children who profaned the Sabbath (17, p. 9). Passed in 1646, this law stood, in revised form, for over 300 years (124, pp. 42-43). The specific prohibitions and punishments prescribed in colonial Massachusetts appear strange and harsh by present standards. One would have a better appreciation of these prohibitions, however, if the conditions under which they were enacted are examined.

Puritan social controls over children were a necessary consequence of the social and economic conditions of colonial society.

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*The congruence between Puritan ideas about economic obligation and social morality has, of course, often been noted. See, e.g, Max Weber (29).

The dangers of frontier life and the difficulties of agricultural production made community, and especially family solidarity, necessary for survival (28, p. 11; 124, p. 44). These controls, which often kept male juveniles residing and laboring on the family farm through adolescence, and often after the children had established families of their own, were reflected in more general Puritan ideas about the family. In the family, the Puritans sought to establish a microcosm of the ideal religious, political, and economic life. Thus the family was patriarchal. Discipline was its founding value: as God demands obedience from His children, so the Puritan father rules his children (28, p. 8).

There was a certain ambiguity in the role of children in Puritan society. Children were, first of all, property. Most of the regulations aimed at children also included servants, as both were necessary to the maintenance of the family enterprise (124, p. 43). At the same time, child welfare was a subject of special concern. The attention given to childrearing was a product of Christian moralism, and was manifest in Puritan society (109, p. 37). The Puritan child was not an innocent, but rather a thoroughly evil creature whose sin could only be repressed by rigorous discipline, and whose moral upbringing was a major responsibility of the parents (28, pp. 7-8). The family was the first line of defense against evil in its most insidious form, the child. Delinquency prevention began and ended in the household, and its administration was anxiously watched by the entire community (17, p. 10). Families unwilling or incapable of inculcating Puritan discipline faced the ultimate sanction of having their children placed in another family under an involuntary apprenticeship.

On the whole, it is possible to say that law functioned in Puritan society in a manner quite different than it is understood today. Colonial laws regulating children were idealistic in the sense that they established a standard of behavior to which children were expected to mature (28, p. 9). This standard was the product of a parochial and homogenous society that existed on extremely tenuous economic grounds. The abundance of land and scarcity of labor combined to reduce the economic dependence of sons on their parents, thus making it necessary to discourage sons from leaving home. Therefore, most colonial laws regulating children were not addressing the socialization of young children, but those of the age of sixteen who were physically and emotionally mature enough to threaten family stability by declaring their independence. In contrast, law today, while still partially idealistic, tends to enforce broad parameters within which many behavioral variations, tolerable in a culturally diverse and wealthy society, are condoned. In the regulation of children, as in many other areas, the Puritan forebears are not so distant as one might expect. As this discussion proceeds, one can see that reform in the field of juvenile justice did not necessarily mean major advances for the treatment of children.

The Refuge Period (1824-1899)

At the beginning of the 19th century, burgeoning industrialization created the need for more efficient control over the laboring population. Enlightenment philosophy provided the popular rationale, and the refuge movement the means, for State intervention into the lives of various kinds of deviants, including wayward children. Thus, in this period, while the Puritan ideology of the family was maintained, the family nevertheless became suspect as a source of deviance, and official prerogatives in the regulation of parent-child relationships were established.*

Among the many changes that had occurred in American society by the beginning of the eighteenth century--national independence, the beginnings of urbanization, and the first shifts from an agricultural to a mercantile economy--was a major change in the way the society provided for its less fortunate members. In Puritan society, the family bore primary responsibility not only for the care of recalcitrant and dependent children, but also for dependent adults, the poor, the sick, the aged, and the insane. Penitentiaries, reformatories, hospitals, and insane asylums were all but unknown (109, p. 42; 19). These institutions were all developed during the eighteenth century when care for the deviant became a matter of public responsibility. The movement to institutionalize children on a large scale was the result of change in the American social structure and changes in the social attitudes and beliefs about children, the family, and deviance. Although there was some affirmation of basic Puritan values during the Refuge Period, there were also radical changes in the perceptions of man's nature and society. Greater reliance was placed on human reason rather than on faith, magic, and miracles. Rationalism proposed that man and his condition were knowable and capable of improvement by men. Man in his natural state was assumed to be good rather than evil; however, if evil existed it resulted from his "environment." The child represented man in his natural state of innocence. If the child went wrong, it was due to the environment of the family. To correct for a child's misbehavior, a better environment had to be provided, either by the natural family or substitute family.

---

*For the classic statement of the political rationale for centralized authority to assume an activist role in establishing economic and social relationships, see The Federalist Papers (8).

The clearest and most fundamental differences between colonial and post-Revolutionary society lay in the economic realm. The population shift from rural to developing urban centers and the change from home to factory-based production led to a devaluation of the family's economic function and a rearrangement of roles within the family. As father, mother, and often children went to work in factories, the rationale for the multi-generational household began to evaporate and the autonomous nuclear family prevalent today began to be the norm.

The radical shift in values that had taken place by this time was partly a product of the European Enlightenment. The strict God of the Puritans was shunted off, and a human-centered cosmology, holding out the possibility of the rational perfectability of society, was put in His place. The Puritan notion of radical evil was replaced by a philosophy of progress more appropriate to an expanding and optimistic society. This optimism extended to attitudes about the control of deviant behavior. In the language of the "enlightened society," deviance became a treatable illness rather than a sign of innate wickedness (118, p. 8; 28, p. 15; 19).

The result of this confluence of social and ideal factors was a gradual shift in the American view of the family. As previously discussed, the family was initially seen as the ultimate source of criminal behavior. Deviance was perceived as an environmental illness, and the most fundamental environment the individual encountered was that established by the family. Eventually, parents were re-established as the first agents of social control, for as middle-class reformers began to regard with horror the rising tide of European immigrants with their "idle children," there was a general loss of confidence in the new and rapidly changing society as a solution to the limitations of the family. Teitelbaum sums this up by saying that "the result of developments in the eighteenth and nineteenth centuries was a continued emphasis on the importance of childrearing combined with growing concern for the capacity of families to discharge that function properly" (28, p. 18).

The New York House of Refuge, established in 1824, was a concrete manifestation of the combined impulses for the social control and rehabilitation of deviant or wayward children by the educated or elite of society. Its stated goals were twofold: first, to rescue children of the poor, whether criminal or simply vagrant, from the malign influence of deviant adults encountered in the city's courts and jails; and second, to provide them with the homelike care and discipline that they had so obviously been lacking, in the hopes of arresting and reversing their decline into adult criminality (25, pp. 12-14). It continued to emphasize the functions of the family regarding the education and socialization of children, but proposed official agencies of social control as effective remedies for family failure.

The movement to separate juvenile from adult offenders rested on an epidemiological theory of deviance; today's incorrigible child, if left in contact with a deviant environment, will become tomorrow's "capital felon." Fine distinctions were not drawn, however, among various types of juveniles. Neglected, vagrant, and delinquent children were seen as representing different stations on a common road to crime (25, pp. 12-14).

Soon refuges were established in Philadelphia and Boston. These institutions are significant for two reasons: first, they were the first publicly supported institutions for delinquent and dependent children. English refuges of the time were supported by charity. Second, they were the first such institutions in which the length of stay was determined by the administrators of the institution. This was possible because, on the one hand, the refuges existed as agencies of the law; and on the other, because the new medical model of deviance demanded that children be incarcerated until they had been reformed (25, pp. 12-14). Thus the refuge period, by joining the principles of legal control of juveniles and rehabilitative incarceration, represented an important first step in the development of today's juvenile justice system.

So powerful was the idea of State intervention into families that the refuges themselves had hardly been established before they began to be supplemented by other mechanisms of social control. Early in the century, Massachusetts passed the first compulsory education law, and New York proposed one in 1832 (28, pp. 18-19). The public school then joined the legal system as a backstop to the family's weakened capacity to socialize children.

The drive to separate juvenile from adult offenders continued. In 1861, Chicago began to separate children from adults in the city's criminal courts (118, p. 8). Massachusetts followed suit in 1870, and New York and Rhode Island in 1898 (12). In 1899, the doctrine of parens patriae (parents for the State), which describes the power of the State to act in place of the parents for the purpose of protecting the property interests and person of the child, was invoked and upheld in Pennsylvania, thus setting a firm legal precedent for the legal incarceration of juveniles (115, p. 625; 9, p. 50).

The Juvenile Court Period (1899-1960)

The establishment of the juvenile court at the end of the 19th century was a result of an aggravated concern for social order in the cities on the one hand, and on the other, reformists' dismay with the evils of industrialization in general and the institutionalization of children in particular. Basing its jurisdictional justification for involvement in juvenile socialization and social control upon the doctrine of parens patriae, the juvenile court has institutionalized the concept of the legal immaturity of children and of the weakness of the family to function adequately in this area. The parens patriae doctrine holds essentially that in order to protect the State's interests, the juvenile court has the right to intervene benevolently in directing the care and custody of the State's youth.

Brief histories of the juvenile justice system often begin at the point at which this essay has just arrived; i.e., the foundation of the first juvenile court in the United States in 1899. This reform established the system as it is known today. It appears, however, that the juvenile court movement was actually less a reform than an extension of problems and practices that were by then a century old. To the child-savers of the late eighteenth and early nineteenth centuries, the institution had become a panacea; not places simply to confine criminals, lunatics, and abandoned children, as they were in Europe, but places of positive reform, perhaps even a superior way to raise children (109, p. 45). In this context, the juvenile court may be seen as an extension and broadening of an earlier concept that vested the State with the responsibility for dealing with problem children. This set the stage for the juvenile court "to become an even more powerful super parent" (109, p. 47).

In some ways, the juvenile court was qualitatively new, for "it strengthened the traditional concept of parens patriae, gave legal sanction to the stratification of society by age, and for the first time located responsibility for official action in a unique legal body for children" (109, p. 47). The establishment of the juvenile court signified an advance for the legal status of children, simply by making the proceedings a matter of record and subjecting them to the rule of law. As it was established, however, the mission of adjudication was subordinated to that of care and rehabilitation, and thus the court was given a broad mandate to bring needy children within its jurisdiction and determine a rehabilitative solution, unconstrained by the safeguards that existed for adults.

The juvenile court period was the result, first, of a changed social situation. The immigration that had caused so much concern for earlier reformers had not only increased drastically (109, p. 46), it had been replaced by southern and eastern European immigrants. Meanwhile, movements of progressive reform were having an impact in many areas of American political life. The most important of these, in terms of the juvenile court, was the female rights movement, which directed its fundamentally middle-class energies and values toward the child-saving movement (16). Partly as a result of such efforts, and partly as a result of hospitable economic changes, stringent laws against child labor were passed in many States and for the first time received broad support (109, p. 48).

Second, the court was the product of a more highly developed ideology of rehabilitation. There was disenchantment with the reformatories established in the previous century. A combination of factors had caused them to decline from caring to purely custodial institutions. On the one hand, simple organizational pressures and lack of resources made individualized rehabilitative care almost impossible. On the other, the common tendencies of refuge managers to interpret "care" in terms of the still-prevalent Puritan values of discipline, duty, and work led to a conveniently rationalized military regimen within the institutions. As Rothman writes, "Under these circumstances, incarceration became first and foremost a method for controlling the deviant and dependent population. The promise of reform had built up the asylums; the functionalism of custody perpetuated them" (19).

Thus the juvenile court, while touted as an amelioration of the evils created by institutions, in fact re-established the ideal of the public institution as the rescuer of the depraved and guarantor of public order, with an apparent change in method (109, p. 46). Illinois legislation establishing the first juvenile court allowed the State, upon receipt of a complaint from "any reputable person," to bring a child within its purview (120, pp. 255-256). Neglected, dependent, and delinquent children were brought together under one jurisdiction, and wayward and incorrigible children were included in the definition of delinquency. In keeping with the rehabilitative model of the court, hearings were to be informal, non-adversarial, and diagnostic in purpose; accordingly, due process guarantees considered necessary for adult criminal trials were waived. For the first time, children were required to be held in detention separately from adults and were given their own probation service (12, p. 3). By 1928, all but two States had established juvenile courts after the Illinois model. Today, no State lacks a juvenile court in some form.

The impact of the juvenile court period may be summarized by saying that, during this period, the contradictory attitudes toward children and the law held by the refuge reformers were raised to a new level and given an entrenched legal and social foundation. The court's contradictory role as both an alternative to family authority, derived from its social control function, and as a supplement to family authority, derived from its nurturing and rehabilitative function, is a concrete manifestation of the ambivalence of the reformers themselves. That ambivalence is still acute in the controversy over the proper handling of noncriminal juveniles. The result is two paradoxes which reformers find difficult to resolve. The first paradox is involved in the court's attitude toward the family. According to Teitelbaum, modern child-saving laws show "considerable ambivalence" in their view of the family, particularly those dealing with youthful disobedience. This results from an effort at the turn of this century to incorporate views of the family appropriate to Puritan society into the radically different context of progressive America (28, pp. 1-2). To the Puritan, the family had a simple but important function: to turn the wicked child into a righteous adult. The modern "discovery of childhood," however, led to increased attention to childhood and adolescence as stages important in themselves and not merely as a prelude to adulthood. The goal of the child-savers was not to cleanse the innately depraved soul of the child, but to isolate the deviant juvenile from the corrupting influences of the adult environment, to "maintain youthful innocence at the cost of prolonged infantilization in some degree" (28, p. 29). Thus the juvenile court tended to prolong the dependence of children as it sought to protect them, and the family often became supplanted rather than supplemented, contrary to the plans of reformers.

The second paradox deals with the court's goal of individualized justice. On the one hand, justice (or "legal justice") (4, p. 204) demands that clear-cut, objective, and non-arbitrary standards be brought to bear in judging guilt or innocence on the basis of the existence of specific facts. On the other hand, individual treatment (or "substantive justice") ignores the justice ideal of equality before the law and prescribes remedies deemed appropriate for the individual case. A result of this orientation is that people can be brought before the court, tried, and their freedom restricted, not on the basis of their behavior, but rather for their condition or status. The example of juvenile status offenders is particularly useful here. Children are judged deviant for being disobedient, not for doing something that is illegal. Hence the paradox of the juvenile court. It attempts to employ the model of legal justice in pursuit of the opposing goal of substantive justice (4, p. 206).

Therefore, the cornerstone of substantive justice is the personal condition of the individual, i.e., his or her status, whether as a fully participating citizen or as a dependent, incapable of assuming the rights and responsibilities of full citizenship. Dependent status implies a political disadvantage (4, p. 220), the prototype of which is in the family. The child's natural dependence on his/her parents, at least in infancy and early childhood, is enlarged and extended by the court in its role as surrogate parent. Insofar as this surrogate role is emphasized and individualized treatment actually provided, the ability of the court to provide legal justice is undercut. Conversely, if the legal structure is emphasized and the court's role is restricted to the application of rules and remedies, the ability of the court to function in place of a family in developing autonomy in the child is undermined (4, p. 220). The substantive justice model may be appropriate in cases of dependency and neglect, where theoretically at least the child is not subject to legal penalties. The legal justice model may render fair judgments in delinquency cases where specific criminal acts are at issue. Neither is appropriate, however, in that area occupied by incorrigibility statutes. The next section of this history discusses more recent attempts to resolve this paradox.

The Era of Juvenile Rights (1960-Present)

Contemporary juvenile justice reformers have sought both to foster a concern for juvenile rights and to reassert the significance of the family as the responsible agent of control over children's behavior. The two objectives are potentially contradictory. Juveniles accused of delinquent acts are increasingly given the rights and protections of adults and thus are in a sense becoming emancipated from the discretionary controls of *parens patriae*. On the other hand, status offense behavior continues to be interpreted as symptomatic of immaturity, and the family and formal justice system processing are looked to for its control. The contradiction still exists today as evidenced by a recent case of a child petitioning the court to to have herself declared beyond the control of her parents in order to free herself from the environment of her family and receive services from the State.* The remainder of this section will point out some of the changes that might have brought this situation about.

In the first half of the twentieth century, progress was made in securing some measure of constitutional rights for many segments of the adult population to whom they had hitherto been lacking. Little attention was paid, however, to inequities within the juvenile justice system. If anything, during this time the juvenile court and its ancillary institutions became even more firmly established. Judges, probation officers, correctional workers, and police juvenile specialists multipled and acquired a measure of professional prestige and power. Since most of the issues of equity and due process that were so creatively applied in criminal law were held inapplicable to the juvenile court, little change was forthcoming from within the general legal system.

In the 1960's, this situation began to change. Once again, ever-rising rates and variations of serious juvenile crime became

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*See 125, pp. 659-691 for discussion of *In Re Snyder*, (85 Washington 2d 182, 532 P. 2d 278, 1975) and its implications to status offenders and juvenile justice.

an issue of public concern. At the same time, concern began to grow for the plight of abused and neglected children, and for children's rights in general. This change appears as a logical extension of those wrought by the various civil rights movements of the late 50's and 60's, the controversy over social welfare programs, and especially by the resurgence of the women's movement. There was, in general, a move by disadvantaged groups from a state of dependency before the law to one demanding full citizenship.

There was also a transformation going on in the academic community that had long provided the intellectual rationale for the juvenile justice system. Besides traditional research on the control, prevention, and cure of juvenile delinquency, which by and large accepted the system's basic assumptions about etiology and rehabilitation, research began to appear that focused not only on aspects of the offender, but on the system. Articles and books began to appear which not only suggested that the juvenile court was ineffective in preventing delinquency, but implicated the entire system in actually fostering juvenile crime. The juvenile justice system was itself becoming viewed as being intensively criminogenic and harmful to the juvenile.

These arguments achieved some measure of legal credibility in the Supreme Court decisions of Kent and In Re Gault (1966 and 1967, respectively). In these decisions, the Court weighed the juvenile justice system's rehabilitative agenda against the child's right to due process and, in the specific cases involved, found the system wanting (12). Whether intentionally or not, with these decisions the Court initiated a movement that, once again, was to lead to a critical evaluation of the function, effectiveness, and impact of the juvenile justice system.

This movement is significant in two respects. First, the impetus for change was initiated at the Federal level, unlike previous reforms which evolved on the State and local level as a result of pressure brought by middle-class community leaders.

Second, because there were legitimate grounds on which to question the fundamental ideologies of the refuge and juvenile court movements, the value of classifying incorrigible youths as predelinquents was cast into serious doubt (5, p. 93).

While it is still too early to judge the final effects of these changes, one can project some possibilities. Legislative attention to the issue of status offenders has not, as yet, proved definitive. For the most part, status offenders still remain within the jurisdiction of the juvenile court in the United States. In many cases, they are separated from delinquents, given a presumably less stigmatizing label such as Persons In Need of Supervision (PINS), and subjected to a varying and often equivocal range of treatment alternatives.

JUDICIAL RESPONSES TO THE NEED FOR CHANGE

This section will discuss recent judicial decisions which have directly or indirectly affected status offenders in the juvenile justice system. This summary of judicial activity at the Federal and State levels is not intended to be an in-depth analysis, but rather to provide a statement of major issues and trends that will set the context for further study in this area.

Court Decisions

The first delinquency case* in which the U.S. Supreme Court extended limited due process guarantees to juveniles called into question the legislative nature of the juvenile court's operations. The Court said in Kent v. U.S. (1966) 383 U.S. 541:

> There is much evidence that some juvenile courts, including that of the District of Columbia, lack the personnel,

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*Jurisdictional statutes in many States combine delinquent or criminal offenses with status offenses. Some States in recent years have adopted separate statutes proscribing status offenses and vesting jurisdiction in the juvenile court. Thus, reference here to "delinquency cases" or to "status offense cases" will relate to the legal issues peculiar to the basic distinctions between the delinquent offender and the status offender.

> facilities, and techniques to perform adequately as representatives of the State in a parens patriae capacity, at least with respect to children charged with law violation. There is evidence, in fact, that there may be grounds for concern that the child receives the worst of both worlds: that he gets neither the protections accorded to adults nor the solicitous care and regenerative treatment postulated for children.*

Cases dealing with due process within the juvenile court which have been heard by the U.S. Supreme Court have dealt primarily with delinquent defendants, although they have some relevance to all juveniles. As of this writing, however, no due process cases were found dealing specifically with dependent and neglected or status offenders. Therefore, the delinquency cases are important because they reveal recent judicial attitudes concerning the nature of the juvenile court in regard to juvenile rights. They present the various arguments for and against the retention of the current juvenile court system. These decisions lead some observers to conclude that the "status offender" jurisdiction will be reserved by the court for legislative determination.

Most of the relevant delinquency cases heard by the U.S. Supreme Court have examined the parens patriae rationale for the juvenile court's jurisdiction. These cases balance the State's right to deprive a youth of his/her liberty without full due process protections against the extent to which real rehabilitative placement, care, and treatment are being provided. This same "balancing test" was used as early as 1839 in Ex parte Crouse, the first case to invoke the parens patriae justification.** Since that time, the Court has continued to approach this issue on a case-by-case review basis. It is unclear whether a definitive statement on the limits of parens patriae is to be expected in the future.

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*Kent v. U.S., 383 U.S. 541 (1966), cited in 123, p. 5.

**Ex parte Crouse, 4 Wharton (Pa.) 9(1838).

Briefly, the Supreme Court has held as follows:

In Kent v. U.S., 383 U.S. 541 (1966), the Court extended the first due process guarantees to juveniles. It invalidated a waiver order by which a juvenile accused of a serious crime was transferred to adult criminal court without a statement of reasons, a hearing, or effective assistance of counsel (126, p. 36).

The Court, in In Re Gault, 387 U.S. 1 (1967), held that juveniles are entitled to (1) adequate notice to parent and child, including a precise statement of the charge which would afford a reasonable opportunity to prepare a defense; (2) right to counsel, and if indigent, provision for appointment of counsel; (3) the right to invoke the privilege against self-incrimination; and (4) the right to confront and cross-examine witnesses. According to Stiller and Elder, the Court felt that even the most benevolent intentions were inadequate substitutes for procedural due process, because such "unbridled discretion" could result "not in enlightened procedure, but in arbitrariness" (126, p. 36).

In Re Winship, 397 U.S. 358 (1970), held that proof must be "beyond a reasonable doubt" before a juvenile may be adjudicated a delinquent for an act which would constitute a crime if committed by an adult. The Court found unpersuasive the fact that the juvenile proceedings were denominated noncriminal and were intended to benefit the child (126, p. 37).

The most recent Supreme Court decision on juvenile justice, McKeiver v. Pennsylvania, 403 U.S. 528 (1971), appears to have altered the trend of the Kent-Gault-Winship trilogy by refusing to expand further the rights accorded to juveniles in juvenile proceedings. The Court held that "trial by jury in the juvenile court's adjudicative stage is not a constitutional requirement" nor a "necessary component to accurate factfinding." The McKeiver decision appears to support a view of the separate juvenile court concept as a valuable effort in the rehabilitation of delinquent youths (126, pp. 37-38).

Grounds for Constitutional Challenge

Following the Supreme Court's decisions regarding juvenile rights and due process requirements, numerous constitutional challenges have been raised by litigants in State courts over the power of the State to assert jurisdiction over juveniles on the basis of status offenses. Generally, these challenges can be categorized in terms of four constitutional issues:

- void for vagueness
- equal protection
- right to treatment
- cruel and unusual punishment.

Void for Vagueness

The due process clause of the Fourteenth Amendment of the U.S. Constitution requires that "no State shall deprive any person of life, liberty, or property without due process of law." One major criterion of due process is that a statute must be clear as to the act or its omission which can result in charges being brought, and upon which the court can take action. Accordingly, it is believed that a vagueness challenge can be successfully brought to a civil statute if any of the following occur:

- the statute is imprecise
- it poses a forfeiture or some other serious deprivation
- the forfeiture or other deprivation is imposed at the request of State authorities (123, pp. 755-758).

According to some critics, if ordinary vagueness tests are applied, many status offense laws are subject to challenge (4, p. 209). The breadth and imprecision of some PINS statutes continue to be discussed in the literature (126; 123, p. 745; 114, p. 184; 113, p. 568) and a number of court decisions which have affirmed the challenges of vagueness; however, for the most part courts have been hesitant in declaring them invalid.*

On the other hand, juvenile status offense statutes have been defended as serving a legitimate function in the juvenile court. Some argue that an application of vagueness norms which have been applicable in adult cases would undercut the parens patriae foundation of the juvenile court (81).

In conclusion, the issue of the constitutional vagueness of status offense legislation has led some critics to suggest that more precise language is required in order to eliminate discretion and allow for more uniform standards for adjudication. Other critics reject this approach altogether in favor of removing status offenses entirely from the court's jurisdiction (81).

Equal Protection

Status offense legislation may be challenged on the grounds that they deny equal protection of the law. The equal protection clause of the Fourteenth Amendment permits a State to recognize and act upon differences that exist between individuals and classes, but only if the classifications are reasonable. Therefore, the equal protection clause does not require that laws apply equally to everyone, but rather that all who are similarly situated before the law be treated the same. This challenge raises a significant question as to the differential due process rights provided for the delinquent class and denied to the class of juveniles referred to as status offenders. In other words, can status offenders be given different constitutional protections than a child coming before the court as a delinquent, neglected, or dependent child?

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*E.g., Gonzalez v. Maillaird, No. 50424 (N.D. Cal., Feb. 9, 1971), vacated 416 U.S. 918 (1974); State v. Mattiello, 4 Conn. Cir. 55, 225 A.2d 507 (Conn. App. 1966); E.S.G. v. State, 447 S.W.2d 225 (Tex. Civ. App. 1969), cert. denied 398 U.S. 956 (1970); and cf. Gesicki v. Oswald, 336 F. Supp. 375 (S.D.N.Y. 1971), aff'd per curiam 406 U.S. 913 (1972).

The courts have been reluctant to apply the "strict scrutiny" standard for review and have applied only a "*reasonableness*" test (81). The distinction between these two standards is that the "strict scrutiny" standard is used when a fundamental right or a "suspect classification" is involved, whereas the "reasonableness" standard provides that "there is a presumption of constitutionality and any legislative purpose which presents a rational justification for classification will defeat the challenge" (126, p. 44).

Challenges to juvenile statutes on the basis of equal protection have generally met with failure.* This failure has resulted from the court's continued support of the philosophy of *parens patriae* as the basis of the juvenile court. It is this concept which is used to rationalize the court's need to treat children differently than adults, and to treat Children In Need of Supervision (CHINS) differently than delinquents and dependent children.

Right to Treatment

The juvenile court's purpose and "the underlying principle of legislative and judicial intervention into the lives of children is to take the child in hand and guide him so that the State becomes the protector and guardian because of either the unwillingness or inability of the natural parents to guide him towards good citizenship..." (115, p. 624). This initial purpose and principle has led to a growing recognition of the child's right to treatment as the court has become determined to provide services and supervision to children. It has also placed restrictions on the liberty of the child, although some grounds may exist

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*See *Martarella v. Kelley*, 349 F. Supp. 575, (S.D.N.Y. 1972); *In Re Blakes*, 4 Ill. App. 3d 567, 281 N.E.2d 454 (1972); *In Re Walker*, 282 NC 28, 191 S.E.2d 702 (1972); *Smith v. State*, 444 S.W.3d 941 (Tex. Civ. App. 1969); *People In Interest of D.R.*, 497 P. 2d 824 (1971); and *In Re J.K.*, Del. Fam. Ct., New Castle Cty., 9-22-76.

for the charge that Fourteenth Amendment rights are denied when the child's liberty is restricted and no meaningful treatment is provided. In one status offense case, a Federal court found that the right to treatment was guaranteed by the Constitution, even when State statutes do not require a diagnosis of need for treatment before adjudication.* Recent court decisions at the State level have supported the right to treatment of juveniles adjudicated by the court.**

The right to treatment challenge appears to be the most successful assault, of the four discussed here, on the broad discretion carried in the court's _parens patriae_ role. The general approach of the cases that have made this challenge is to claim that even when due process rights are not guaranteed to juveniles, provision must be made to insure that adequate treatment is provided. Precisely what the court considers to be "adequate treatment" for juveniles is still an issue that will require further definition by the court. In addition, the juvenile's right to _refuse_ treatment may emerge as yet another significant challenge to the court's _parens patriae_ role.

Cruel and Unusual Punishment

The Supreme Court in 1962 decided that criminal commitment for a status offense or disease is cruel and unusual punishment.*** Despite this, litigation questioning the validity of status offender legislation based upon the Eighth Amendment constitutional argument of cruel and unusual punishment has met with little success. This argument holds that status offense laws enable the adjudication of a juvenile on the basis of his or her status (i.e., being a juvenile) rather than on the basis of any specific act. State courts have generally rejected the charge that status offenses are unconstitutional in this regard because, for example, although incorrigibility is a condition or state of being, one acquires such a "status" by reason of one's conduct.*

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*_Nelson v. Heyne_, 491 F. 2d 352, 7th Cir. 1974.

**See _Janet D. v. Carros_, Pa Super. 362 A 2d 1060 (1976); _In Re I._, 33 N.Y. 2d 987, 309 N.E.2d 140, 353 N.Y.S. 2d 743 (1974); _Inmates of the Boys' Training School v. Affleck_, 346 F. Supp. 1354; _Morales v. Turman_, 383 F. Supp. 53 (E.D. Tex. 1974).

***_Robinson v. California_, 370 U.S. 660, 1962.

Many proponents of the cruel and unusual punishment challenge to status offense statutes point out an inconsistency whereby a law that penalizes a habitual addict can be seen as punishment for a status and hence unconstitutional, while a law that penalizes a child who habitually disobeys his/her parents, i.e., the incorrigible child, is not considered punishment for a status (81, p. 71).

SUMMARY AND CONCLUSIONS

Summary

There are three general categories of juvenile law. The first is juvenile delinquency, concerning criminal offenses by minors. The second concerns parental fitness, and is enacted in laws dealing with abused, neglected, or dependent children. The third category, status offenses, lies between delinquency and parental fitness. This area of law focuses on "the child's willingness to submit to parental demands that do not constitute abuse or otherwise evidence unfitness" (125, pp. 666-668).

Each of these categories focuses on a different aspect of the parent-child-State relationship. Delinquency assumes a direct child-State relationship similar to that existing for adults accused of crimes. Concern for parental fitness begins with a consideration of the parent-child relationship, but assumes a direct responsibility on the part of the parents to the State to provide essential care to the child. Status offense laws include all the possible relationships, insofar as they provide the means for State intervention and control of children in terms of their obedience to discretionary parental demands.

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*Blondheim v. State, 84 Wash. 2d 874, 529 P. 2d 1096 (1975).

Figure 1 (p. 29) broadly summarizes the major implications and characteristics of each of the historical periods discussed above upon the relationships between the child and the State, the parent and the State, and the parent and the child.

Conclusions

This chapter has been intended to be more than a history of the juvenile court presented in digest form. The intent has been to demonstrate that change in the relationships among the child, the family, and the State as evidenced in the status offender area, i.e., the area that involves the proper regulation of discretionary decision-making by parents, is a major issue in the development of the juvenile justice system as a whole. The juvenile justice system cannot be understood without attention to the status offender issue. The status offender issue, in turn, cannot be understood without recourse to underlying economic, political, and social developments.

Conclusions may be stated in the form of past, present, and future contexts for the status offender issue. The past, as has been demonstrated, shows the gradual erosion of parental authority on both legal and social fronts, and a corresponding increase in State intervention in the family. Periodic reform movements in juvenile justice reasserted the ideology of the family and at the same time pursued the means to supplant it. The legal creation of a defined period of childhood found its analog in extended periods of education and decreased labor force participation by children.

In addition to effects of reform movements upon the family and other institutions concerned with child care, a rising concern for the legal rights of children and a deepening dissatisfaction with the juvenile justice system present a serious challenge to these traditional institutions to respond in nontraditional ways to the needs of children. The ways in which those institutions respond will determine the future course of the status offender issue as well as other juvenile justice issues.

Given the above contexts, there are three logically possible alternatives for the future handling of status offenders. The three alternatives are referred to as the legalistic, the rehabilitative, and the emancipative.

The legalistic alternative would occur if the present tendency to apply rigorous due process guarantees to delinquency proceedings were extended to include status offense proceedings. This does not appear to be a likely alternative for two reasons. First, it runs counter to recent legislative trends that separate delinquency and status offender jurisdiction. Second, status offense charges are not readily amenable to the rules of evidence and the requirement of specificity that now prevail in delinquency proceedings.

The dominance of the rehabilitative mode would, to some degree, involve the extension of an earlier treatment ideology prevalent during the juvenile court period and a corresponding decline in the legalistic impingements on the treatment of status offenders. Rehabilitation implies the increased involvement of local treatment professionals and the expectation that they will provide services to juveniles in need.

The emancipation alternative would be the result of a *de facto* lowering of the age of majority. The emancipated juvenile would be given both the rights and responsibilities of an adult. The tendency to extend adolescence is being reversed in some areas, notably education and political participation. It is doubtful, however, whether this society is economically capable of extending the privileges of adulthood along with its responsibilities to younger members. To grant responsibilities without, for example, providing adequate employment opportunities will tend to create new problems.

Each of these alternatives emphasizes a different approach and desired outcome of the status offender problem, yet each at

FIGURE I

JUVENILE JUSTICE DEVELOPMENTS AND THEIR IMPACT UPON CONCEPTIONS OF THE CHILD, PARENTS, AND STATE RELATIONSHIPS

PERIOD	MAJOR DEVELOPMENTS	PRECIPITATION, INFLUENCES	CHILD / STATE	PARENT/STATE	PARENT/CHILD
PURITAN 1646 - 1824	MASSACHUSETTS STUBBORN CHILD LAW (1646)	A. CHRISTIAN VIEW OF CHILD AS EVIL B. ECONOMICALLY MARGINAL AGRARIAN SOCIETY	LAW PROVIDES: A. SYMBOLIC STANDARD OF MATURITY B. SUPPORT FOR FAMILY AS ECONOMIC UNIT	PARENTS CONSIDERED RESPONSIBLE AND CAPABLE OF CONTROLLING CHILD	CHILD CONSIDERED BOTH PROPERTY AND SPIRITUAL RESPONSIBILITY OF PARENTS
REFUGE 1824 - 1899	INSTITUTIONALIZATION OF DEVIANTS, NEW YORK HOUSE OF REFUGE ESTABLISHED (1824) FOR DELINQUENT AND DEPENDENT CHILDREN	A ENLIGHTENMENT B. IMMIGRATION AND INDUSTRIALIZATION	CHILD SEEN AS HELPLESS, IN NEED OF STATE INTERVENTION	PARENTS SUPPLANTED AS STATE ASSUMES RESPONSIBILITY FOR CORRECTING DEVIANT SOCIALIZATION	FAMILY CONSIDERED TO BE A MAJOR CAUSE OF JUVENILE DEVIANCY
JUVENILE COURT 1899 - 1960	ESTABLISHMENT OF SEPARATE LEGAL SYSTEM FOR JUVENILES -- ILLINOIS JUVENILE COURT ACT (1899)	A. REFORMISM AND REHABILITATIVE IDEOLOGY B. INCREASED IMMIGRATION, URBANIZATION, LARGE-SCALE INDUSTRIALIZATION	JUVENILE COURT INSTITUTIONALIZES LEGAL IRRESPONSIBILITY OF CHILD	PARENS PATRIAE DOCTRINE GIVES LEGAL FOUNDATION FOR STATE INTERVENTION IN FAMILY	FURTHER ABROGATION OF PARENTS' RIGHTS AND RESPONSIBILITIES
JUVENILE RIGHTS 1960 - PRESENT	INCREASED "LEGALIZATION" OF JUVENILE LAW -- GAULT DECISION (1966), JUVENILE JUSTICE AND DELINQUENCY PREVENTION ACT (1974) CALLS FOR DEINSTITUTIONALIZATION OF STATUS OFFENDER	A. CRITICISM OF JUVENILE JUSTICE SYSTEM ON HUMANE GROUNDS B. CIVIL RIGHTS MOVEMENTS BY DISADVANTAGED GROUPS	MOVEMENT TO DEFINE AND PROTECT RIGHTS AS WELL AS PROVIDE SERVICES TO CHILDREN	REASSERTION OF RESPONSIBILITY OF PARENTS AND COMMUNITY FOR WELFARE AND BEHAVIOR OF CHILDREN	ATTENTION GIVEN TO CHILDRENS' CLAIMS AGAINST PARENTS, EARLIER EMANCIPATION OF CHILDREN

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the same time contributes to society's effort to determine what is in the best interest of the child. The present trend toward a formalization of the legal fate of juveniles, the providing of services where problems exist, and the fostering of the growth and maturity of children will continue. One of the implicit issues in this report is whether these goals are currently being approached in an appropriate manner within the juvenile justice system.

CHAPTER III

CURRENT LEGISLATIVE ACTIVITIES IN THE STATUS OFFENDER AREA

INTRODUCTION

The legal codes in the States delineate basic definitions, jurisdictions, dispositions, and powers of key juvenile justice agencies in handling status offenders. Although statutory provisions cannot guarantee effective juvenile justice systems, such provisions are an essential and significant factor in encouraging (or inhibiting) innovative policy development. Another area of inquiry in which statutory provisions are of key importance is in relation to understanding whether and in what ways variations in the substantive law (e.g., offense definitions) affect patterns of offenses and offender rates. Still a third example of the importance of statutory provisions to research and planning efforts becomes apparent when examining the relationship between the formal mandates of the law on the one hand, and performance patterns of operational units on the other. Understanding this link is essential in making sound recommendations for system improvements.

Since the general goal of this report is to provide an up-to-date description of the current level of practice in the status offender area for practitioners, policymakers, and planners, it was determined that the most productive presentation that could be made at this juncture would be to (1) review the current Federal legislative activities in the status offender area; (2) present the most current picture of State legislation as it relates to current status offender issues; and (3) set forth some preliminary observations regarding directions, future developmental needs, and major gaps in status offender legislation.

BACKGROUND

As observed at the close of the previous chapter, there has been much impetus in recent years for reforming the manner in which status offenders are handled by the juvenile justice system. Early legislative recognition of the shortcomings and inadequacies of the juvenile court movement and of the failure of the *parens patriae* doctrine to protect adequately this class of youths came in 1961 in California and in 1962 in New York with the revision of the juvenile codes which removed status offenders from the delinquent category. A few years later (beginning in 1966) the U.S. Supreme Court emphasized the issue of juvenile rights with the series of decisions referred to in the previous chapter. These landmark decisions have resulted in the most significant changes in the operation of the juvenile court in its entire 79-year history.

Seizing upon the Supreme Court's initiative, a number of lower Federal and State courts, Presidential commissions, children's rights advocates, and legislators joined in the process of focusing new attention on the social-legal treatment of status offenders by the juvenile court. Though the juvenile court was established through the legislative process, the formation of its operational framework was influenced largely by the statutes and court structure in existence at the time of its creation; since then, little attention had been given to the legislative area until 1960. Sarri and Levin, in their comparative analysis of U.S. juvenile codes (7), note that while juvenile justice literature for over 40 years had consistently emphasized the treatment aspect of the juvenile court, it rarely referred to juvenile law, legal procedure, or children's rights. Because of the juvenile court's orientation toward individualized treatment of juvenile offenders, statutes were not viewed as significant in the development of the court as a service organization. The rationale of the early reformers was that since the court's very creation was to provide for protective and rehabilitative custody, there was really no need for statutory formality except as it enhanced the court's ends. In fact, many proponents of the juvenile court have argued that statutory formality and the extension of constitutional rights act as a hindrance rather than as an aid to the rehabilitative efforts of the court. It should be noted that approximately ten States provide no statutory labels for children under the jurisdiction of the court, possibly to avoid limiting the court's rehabilitative efforts (81, p. 13).*

With the Supreme Court's bold and unequivocal recognition of the juvenile court's failure to meet its original goals, a wave of Federal and State court decisions and legislative activities are gradually changing the role, if not the structure, of juvenile courts across the country.

FEDERAL LEGISLATION

The Omnibus Crime Control and Safe Streets Act of 1968 was the first major Federal legislation which began to focus Federal effort and funds into State and local criminal justice agencies with the goal of assisting them in the control and reduction of both adult and youth crime. There was also much Federal legislation prior to this Act (see figure 2, p.35). The 1968 legislation provided that annual block grants be made available to the States for the planning and implementation of action programs to improve law enforcement and criminal justice. Also, under the Act, each State is required to establish a State planning agency which would develop a comprehensive plan reflecting the State's needs and priorities before grants would be awarded.**

In 1971 and 1973, Congress amended the Act to require the Law Enforcement Assistance Administration (LEAA) to place an even greater emphasis on juvenile delinquency. Grants were specifically authorized for community-based juvenile delinquency prevention and correctional programs (96).* Finally, in 1974, Congress passed the Juvenile Justice and Delinquency Prevention Act. This was the product of a "three-year bipartisan effort to improve the quality of juvenile justice in the United States and to overhaul the Federal approach to the problems of juvenile delinquency and children in trouble" (100, p. 1). The Act established the Federal Office of Juvenile Justice and Delinquency Prevention (OJJDP) and assigned that agency the task of coordinating a comprehensive and unified national approach to improving the nation's juvenile justice system. The basic thrust of the Act is to encourage individual States, through the disbursement of Federal funds, to achieve the mandates of the Federal legislation. The individual State criminal justice planning agencies established under the 1968 Omnibus Crime Act are first required to submit a comprehensive plan for State compliance with the Federal program. They are then delegated to receive Federal allotments and disburse the funds in such a manner as to achieve the mandates of the Act (as outlined in their State juvenile justice plans).

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*These States do not provide statutory labels for children coming under the court's jurisdiction. The statutes provide for the court's intervention for certain defined types of activity committed by or to a child.

**Omnibus Crime Control and Safe Streets Act, June 19, 1968, Public Law No. 90-351.

The two most salient features of the 1974 Act relating to status offenders are as follows:

> Section 223(a)(12) provides within two years after submission of the plan that juveniles who are charged with or who have committed offenses that would not be criminal if committed by an adult, shall not be placed in juvenile detention or correctional facilities, but must be placed in shelter facilities; (and)
>
> Section 223(a)(13) provides that juveniles alleged to be or found to be delinquent shall not be detained or confined in any institution in which they have regular contact with adult persons incarcerated because they have been convicted of a crime or are awaiting trial on criminal charges.

In the 1977 amendments to the Juvenile Justice Act of 1974, the Congress, in addition to reauthorizing the Act for three years and authorizing appropriation of $525 million over that time, also extended from two to three years the time period within which States must complete the deinstitutionalization of status offenders (131, p. 4). Further,

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*This document is an excellent source for the developmental background of the Act.

Figure 2

FEDERAL JUVENILE DELINQUENCY ACTIVITY AND EVENTS PRECEDING THE PASSAGE OF THE JUVENILE JUSTICE AND DELINQUENCY PREVENTION ACT OF 1974

Prior Federal Juvenile Delinquency Activity

1912	Children's Bureau created by Act of Congress.
1948	Interdepartmental Committee on Children and Youth established. Its purpose was to develop closer relationships among Federal Agencies concerned with children and youth.
1950	The Midcentury White House Conference on Children and Youth. Considered methods to strengthen juvenile courts, development of juvenile police services, and studied prevention and treatment services of social agencies, police, courts, institutions, and after-care agencies.
1961	President's Committee on Juvenile Delinquency and Youth Crime established. It recommended enactment of the Juvenile Delinquency and Youth Offenses Control Act of 1961.
1961	Juvenile Delinquency and Youth Offenses Control Act of 1961. It had a three-year authorization for the purpose of demonstrating new methods of delinquency prevention and control.
1964	Juvenile Delinquency and Youth Offenses Control Act authorized a special demonstration project in Washington, D.C., and was subsequently extended through fiscal year 1967.
1968	Juvenile Delinquency Prevention and Control Act of 1968. Assigned to Health, Education and Welfare (HEW) responsibility for developing a national approach to the problems of juvenile delinquency.
1968	Omnibus Crime Control and Safe Streets Act of 1968. Provided block grants to States in order to improve and strengthen law enforcement.
1971	Juvenile Delinquency Prevention and Control Act extended for one year. The Interdepartmental Council to coordinate all Federal Juvenile Delinquency Programs was established by this Act.
1971	Omnibus Crime Control and Safe Streets Act amended. The definition of law enforcement was amended to specifically include programs related to prevention, control, and reduction of juvenile delinquency.
1972	Juvenile Delinquency Prevention Act enacted. The Act was an extension of the Juvenile Delinquency Prevention and Control Act of 1971. Under the Act HEW was to fund preventive programs outside the juvenile justice system.
1973	Omnibus Crime Control and Safe Streets Act amended. The Act specifically required that there be a juvenile delinquency component to the comprehensive State plan for the improvement of law enforcement and criminal justice.

the Act provides the administrator of OJJDP with significant discretionary powers in extending compliance deadlines even beyond the three-year limit where there is deemed to be "substantial compliance" on the part of the State. The 1977 Amendments also extend the coverage of Section 223(a)(12) to specifically include such nonoffenders as dependent or neglected children.* The extension and waiver provisions apparently were included in the amendments to the Act primarily at the request of a number of States which indicated that they could only meet the compliance requirements if given more time.

In adding the new amendments, OJJDP felt that (1) the considerable progress which already was made under the 1974 Act would continue; (2) States and local governments would be reassured concerning the Federal government's long-term commitment to the objectives of the Act; and (3) those States which were committed to compliance but which were legitimately unable to do so within the original two-year time frame could continue in and benefit from participation in the formula grant program without penalty.**

An important element of the 1974 and 1977 legislation which is supplemental to the formula grant aspect of the Act is the discretionary fund which is provided to OJJDP for special emphasis prevention and treatment programs. A significant part of these funds are presently being used to implement and test several status offender pilot programs around the country. These funds are dispersed in five general areas: prevention of juvenile delinquency; diversion of juveniles from traditional juvenile justice system processing; development and maintenance of community-based alternatives to traditional forms of institutionalization; reduction and control of juvenile crime and delinquency; and improvement of the juvenile justice system. Program approaches to be used in each area are designed so that they will strengthen the capacity of both public and private youth service agencies to effectively deliver services to youths.*

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*Juvenile Justice and Delinquency Prevention Act Amendments of 1977, Public Law No. 95-115; 91 Stat. 1048.

**Juvenile Justice and Delinquency Prevention Act Amendments of 1977, Subcommittee Hearings Report on HR-1137 and HR-6111, held in Washington, D.C., April 22, 1977, pp. 42-43.

To aid in the implementation efforts of local State and national initiatives, the Federal legislation also provides for a technical assistance capacity to be developed by OJJDP. This unit of OJJDP, in addition to helping both public and private entities within the States and localities assess their youth service needs and resources, also assists such groups in the development and implementation of program and system initiatives for meeting those needs.

A related focus of the Federal effort in the status offender area has been in the area of runaways. At the time the Juvenile Justice and Delinquency Prevention Act of 1974 was passed, the Congress also approved the Runaway Youth Act of 1974 which placed Federal responsibility for runaways under the authority of the Department of Health, Education, and Welfare. Until that time, runaways (youths who absent themselves from their homes without parental permission) were treated as status offenders in Federal jurisdictions (for example, the District of Columbia) and were within the program responsibility of the Department of Justice. Thus, in effect, the Federal government has "decriminalized" runaways. Under the 1977 amendments (131, p. 4), the Congress extended the Runaway Youth Act for three years as well and authorized $24 million over the next three years to enable it to continue to expand present programs.**

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*Juvenile Justice and Delinquency Prevention Act Amendments of 1977.

**Juvenile Justice and Delinquency Prevention Act of 1974, Subpart II, Section 224, infra.

STATE LEGISLATION*

As already noted, there has been an extraordinarily high level of State legislative activity in the juvenile area in recent years. In the last decade over three-fourths of the States have either enacted entirely new codes or have made substantial modifications in existing ones. Furthermore, the major thrust of many of these recent changes relates in one manner or another to the provision of services to status offenders. Due to the complexity of statutory analysis of State juvenile codes and the limited scope and resources of this report, it was recognized that a thorough and comprehensive coverage of these legislative changes would not be possible. Thus, the decision was made to focus on legislative activities surrounding four broad status offender issue areas: (1) jurisdiction; (2) pre-adjudicatory detention; (3) adjudication; and (4) disposition.

The objective here is to provide a summary of approaches which State legislatures have taken on these issues in an effort to provide a foundation for those interested in further pursuing this area.

Jurisdiction

The jurisdiction issue as it relates to status offenders, broadly stated, is whether the juvenile court should continue to retain statutory jurisdiction over the types of noncriminal juvenile misbehaviors generally characterized as status offenses, e.g., truancy, runaway, incorrigible, curfew, and loitering. A great many commentators, standards groups, and youth advocates around the country have been fervently advocating the total abolition of such a jurisdictional base in recent years (94; 3). Nevertheless, to date, all 50 States and the District of Columbia continue to exercise jurisdiction over one or more "status offense" behaviors.

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*General and specific references to legislation are current through March 1977 unless otherwise indicated.

In terms of jurisdictional classification, the States generally fit status offense behaviors into one of four descriptive categories: delinquent, status offense (e.g., CHINS, PINS, FINS), dependent, or apply no label.

All States that distinguish juvenile behavior from adult behavior within their juvenile codes include within their characterization of delinquents a child who commits an act that would be a criminal offense if committed by an adult. At least seven States, however, include status offense behaviors within this category, which subjects those juveniles who have not committed criminal acts to the same labeling stigma as those who are processed for criminal misbehavior. States which group status offenses and delinquent behavior together will be referred to as "delinquent classification" States.

The majority of States (28 plus D.C.), in an effort to reduce the stigmatization of labeling and court processing, have followed California and New York in their early lead and adopted separate categories in which to classify status offense behavior. These States have incorporated into their codes both labeling and, in many cases, dispositional distinctions between the handling of delinquents and the handling of status offenders. Though such distinctions are more than semantic,* the separation of status offenders using this method has nevertheless been legitimately criticized on a number of legal and other grounds.** One major criticism of the status offender jurisdictional classification system is that it subjects these children to an excessively broad jurisdictional basis, while at the same time removing from them many of the due process guarantees and protections that are afforded to delinquents. Another conflicting provision in effect in some separate classification States allows status offenders who violate court orders or commit a second status offense to be reclassified as delinquent. The practical effect is to undermine the purpose of a separate category since, in many cases, multiple offenses and continuing misbehavior can be easily derived. This mode of classification will be referred to as the "separate class" approach.

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*For example, most of these States place some restrictions on disposition alternatives available to the juvenile court judge for status offenders and a rising number require separate detention housing and forbid incarceration of status offenders in State youth correctional facilities.

**For an excellent discussion of the misuse and abuse of PINS jurisdiction, see Rosenberg (121, p. 1097) and Hickey (112).

The third category under which States assume jurisdiction for status offenders is the "dependent child" category. The primary feature of this mode of classification is that the State, in effect, decriminalizes the prescribed status offense behavior(s) and merges or transfers responsibility for the handling of the youths affected from the State's juvenile justice agency to the State's child welfare or social service agency.*

Figure 3 (p. 41) presents the distribution of status offenses among the jurisdictional categories discussed above. To summarize the data, five points may be made: (1) 47% of the States continue to treat one or more status offenses as delinquent acts; (2) truancy and ungovernability are more likely to be classed under delinquency than other status offenses; (3) 4% of the States consider multiple status offenses as delinquency violations, and 20% consider violations of a court order as delinquency; (4) in 33% of the States, status offenses are treated under dependency jurisdiction; and (5) self-endangerment is most often classed under dependency, while runaway behavior is least often so treated. Two general conclusions may be drawn from these findings: first, while the general trend is toward a separate jurisdiction for status offenders,

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*It should be noted that this labeling technique does not necessarily ensure separate handling or treatment of status offenders from delinquents. For example, in Vermont, where all status offenders are labeled as dependent, State law still permits the placement of status offenders into a State correctional facility with delinquents by the Department of Social Services.

FIGURE 3

PERCENTAGE OF STATES HAVING STATUTORY JURISDICTION OVER STATUS OFFENDERS BY JURISDICTIONAL CLASSIFICATION AND BEHAVIOR (N=51)

BEHAVIOR / JURISDICTIONAL CLASSIFICATION	DELINQUENT CHILD		STATUS OFFENDER		DEPENDENT CHILD		Nº LABELS		TOTAL	
	N	%	N	%	N	%	N	%	N	%
TRUANCY	7	13.7	28	54.9	4	7.8	7	13.7	46	90.1
UNGOVERNABILITY	8	15.7	25	49.0	4	7.8	8	15.7	45	88.2
RUNAWAY	4	7.8	12	23.5	2	3.9	5	9.8	23	45.0
ENDANGERS SELF	3	5.9	12	23.5	7	13.7	6	11.8	28	54.9
MULTIPLE STATUS OFFENSE ADJUDICATIONS	2	3.9	N/A	N/A	N/A	N/A	N/A	N/A	2	3.9
VIOLATION OF COURT ORDER	10	19.6	3	5.9	0	0.0	0	0.0	13	25.5

SOURCE: ADAPTED FROM PENNSYLVANIA JOINT COUNCIL ON THE CRIMINAL JUSTICE SYSTEM, THE JUVENILE STATUS OFFENDER AND THE LAW, (PJCCJS, APRIL 1977), P. 13.

N/A - NOT AVAILABLE

NATIONAL JUVENILE JUSTICE SYSTEM ASSESSMENT CENTER

a significant number of States maintain discretionary power to treat status offenders as delinquents. Figure 4 (p. 43) further indicates the number of States which define status offense behavior as delinquency. Second, a tendency to reclassify status offenders as dependent children appears to be uneven and equivocal; for example, a runaway child is least likely to be classified (4%) as a dependent child, while juveniles who are considered a danger to themselves are more likely classified as dependent children (14%). The rationale for this difference, considering the dimensions of the underlying problem and subsequent behaviors, remains unclear. This diversity among the States in the application of the dependent child label rather than the status offense label for similar types of juvenile acts illustrates the wide variation in juvenile statutes regarding jurisdiction (81, p. 13).

Based upon this preliminary assessment, there seems to be a discernible trend among the number of States which have recently wrestled with this jurisdictional question to move in the direction of employing the dependency category. Since the use of this category provides a sort of middle ground between the negative stigma which has been associated with the "delinquent child" class, and the opposite extreme of totally removing any jurisdictional authority over status offenders from the juvenile court, it appears to present an attractive compromise for State legislators.

The approaches taken by different States range from a partial relinquishment of the "child-at-fault" approach to a relatively "non-fault" system. For example, Florida's statutes enacted in 1975 provide that truants and runaways are to be defined as dependent children, with responsibility for their handling to be shifted to the State's child welfare system. It also provides that a child adjudicated as ungovernable may be referred to and treated as a dependent child. For the second and subsequent adjudication of ungovernability, however, the child may be defined and treated as a delinquent child. Furthermore, the statutes provide that under

FIGURE 4

NUMBER OF STATES DEFINING CHILDREN'S CONDUCT AS DELINQUENCY, STATUS OFFENSE OR BOTH BY TYPE OF CONDUCT

CODE DEFINITION TYPE OF CONDUCT	DELINQUENCY	STATUS OFFENSE	BOTH
CRIMES	47		4
CHILD OFFENSE	3	12	
TRUANCY	10	35	
RUNAWAY	7	19	
UNDESIRABLE ASSOCIATIONS	4	6	
UNDESIRABLE CONDUCT OR CONDITIONS	7	17	1
DISOBEDIENCE	6	26	2
UNRULINESS	9	30	1
VIOLATION OF COURT ORDER	10	1	2
CURFEW VIOLATION	1	2	
DRUG/ALCOHOL ABUSE	3		21

SOURCE: ADAPTED FROM NATIONAL CENTER FOR JUVENILE JUSTICE, JUVENILE COURT JURISDICTION OVER CHILDREN'S CONDUCT: A STATUTES ANALYSIS, BY JOHN L. HUTZLER, ESQ. AND REGINA MARIE SESTAK, ESQ. 1977, P. 3. (BASED UPON A REVIEW OF JUVENILE CODES OF FIFTY STATES AND THE DISTRICT OF COLUMBIA) special circumstances, these children could still be placed in the State's correctional detention system (52).*

Similarly, Utah's recent legislation (May 1977) transfers responsibility for handling runaways and ungovernable children to the Division of Family Services and removes the jurisdiction of the juvenile court in these cases, unless and until it is established that "earnest and persistent" efforts to resolve the child's problem have proven fruitless. When this situation arises, the juvenile then comes under the jurisdiction of the juvenile court and presumably could be subject to dispositions similar to delinquents. The law also allows the court to retain exclusive original jurisdiction over any child "who is an habitual truant from school," and provides for court jurisdiction if other treatment efforts fail.**

Legislation which took effect in Maine in January of 1978 goes the farthest of any statutory revisions passed to date in terms of decriminalizing traditional status offenses. The new law completely removes all status offenses, except for possession of alcohol and possession of marijuana, from the jurisdiction of the juvenile court.*** Thus, except for those two categories, there are no status offenders in Maine. Since Maine had previously mandated the deinstitutionalization of status offenders in 1974, even those adjudicated for marijuana and alcohol offenses may not be incarcerated.**** While the definitional modification in Maine is significant, the legislature did not provide fiscal allocations to increase treatment alternatives for youths formally considered offenders; thus it is difficult at this time to measure the impact of the new law regarding direct services to these children.*

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*See Florida case study.

**Utah 1977 Diversion of Noncriminal Offenders Act (HB-340).

***Maine Public Law No. 520; HP 1794 - L.D. 1894, entitled, "An Act to Establish the Maine Juvenile Code," July 19, 1977. Since marijuana possession by adults has now been decriminalized in Maine, it is only a child's status of being under the age of majority which makes him or her subject to juvenile court jurisdiction for this activity.

****Els, David. Juvenile Justice Specialist, Maine's Law Enforcement Planning and Assistance Agency. Interview. September 1977.

One of the more comprehensive legislative plans to adopt this "no-fault" approach to the handling of status offense behavior is contained in the State of Washington's Substitute House Bill 371 enacted in June 1977. The bill severely restricts the use of detention facilities for status offenders and provides, among other things, for both extensive voluntary family support services to "families who are in conflict," and for a wide range of community-based placement alternatives where family units are unworkable.**

Studies which have sought to measure the impact of the "dependent child" legislation in Florida and other States which have recently enacted statutes covering this area indicate that there have been some major problems with the delivery of services (53). One major problem area identified in at least two States resulted from an attempt to integrate status offenders into a service delivery system designed primarily for abused and neglected youths (93, pp. 13-14). Since the nature of status offense cases is often different from that of the traditional abused or neglected child, States often claim that neither their facilities nor their child welfare personnel are adequately equipped to handle the service needs of their new clients. Numerous other problems ranging from inadequate planning and resources for the transition period to rivalries between State and local agencies over program mangement are also noted (52, pp. 39-40). For example, in States where deinstitutionalization has been instituted, there has been resistance to such a policy on the part of some police, probation, and court agencies due to the perceived threat to their jurisdictional autonomy. Battles over jurisdiction have also developed between

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*Els, David. Juvenile Justice Specialist, Maine's Law Enforcement Planning and Assistance Agency. Interview. September 1977.

**Substitute House Bill 371 (Washington), June 1977.

State and local social service and correctional agencies concerning jurisdiction and budget allocations for the handling of status offenders and status offender programs following deinstitutionalization.

Under the fourth method of classification, the "no label" category, used by at least ten States in assuming jurisdiction over status offenders, there is no formal labeled category into which affected youths are placed. Rather, the respective codes delineate certain activities and behavioral characteristics which, if alleged and proven, give the court jurisdiction over the child. Once jurisdiction is established in States using this mode of classification, a number of separate code sections and administrative regulations can be applied; these provisions allow for distinctions between the handling of children in custody for delinquent* type behaviors and those in custody for status type behaviors and dependency (81).

Though at first glance there appears to be little more than a semantic difference between this method of classification and the "separate class" approach discussed earlier, the subtle distinctions involved are apparently significant to the respective legislation-drafters. On the one hand, the "no-label" States seek to avoid, to the greatest extent possible, attaching the so-called labeling stigma to those youths who come under the jurisdiction of the juvenile court. On the other hand, States using the "separate class" approach, by setting up a legislatively distinct category for status offender behavior, seek to call attention to the unique problems and needs of youths falling into this category and to make official recognition of such differences less equivocal.

Though there are advantages and disadvantages to all four of these jurisdictional approaches, it is clear that the problem of meeting the service needs of children who engage in status offense behavior and their families is more than merely a definitional one.

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*Delinquent here refers to those in custody for committing an act which would be criminal if the youth were an adult.

Whether one calls these children PINS, CHINS, dependents, or simply problem youths, the fact remains that the label which is applied is just that, a label. Broad definitions of status offenses could permit an extension of jurisdiction over more juveniles, but definitions alone do not and cannot create change and improvement in the juvenile justice system. A tremendous amount of time, resources, and energy have been consumed in debate over labeling. It is essential at this point to recognize that the quest for solutions must go beyond this limited realm if substantive solutions are to be reached.

Pre-Adjudicatory Detention

Based upon a review of studies in the juvenile detention area, it appears that the approaches which States take to solving pre-trial detention problems vary greatly as to emphasis and specificity. Still they are similar in that they are "rooted in the origins of the juvenile court movement and unique to the juvenile justice system" (28, p. 25). While in the adult criminal system the principal purpose behind pre-trial detention statutes is to ensure the presence of the defendant in court, in the juvenile justice system this concern is only one of three major factors cited as a basis for determining pre-adjudication detention. The juvenile court may also impose detention on a child to ensure no further offenses are committed pending adjudication (preventive detention); or, to remove a child from an "endangered" environment into the court's protective services (therapeutic detention). As Sarri and Levin point out, since in most cases the latter two alternatives may be imposed even in the absence of proof beyond a reasonable doubt, one can begin to understand the "widespread overuse of detention in the juvenile justice system, especially for status offenders" (28, p. 25). Furthermore, given the abundant documentation of the adverse effects which such detention may have upon these youngsters, the importance of addressing this problem is all the more apparent (18; 117, p. 583; 108, p. 88).

Essentially then, the issue in the (pre-trial) detention area, as in the jurisdiction area, goes back to the very premise upon which the juvenile court is based. The question is, to what extent may the court be allowed to intervene into the lives of youths accused of noncriminal misbehavior?

As already noted, States vary greatly in their approach to the detention of juveniles. On the whole, one of the most notable features of the State code sections dealing with this issue is the absence of clear standards regulating police and court intake procedures. For example, while the majority of States have set up some type of screening process to ensure the viability of the complaint or petition which is filed against a youth, there is generally no mention of probable cause requirements, little if any mention about the sufficiency of evidence justifying court action, and little if any constraint placed upon the delegation of significant decision-making authority to court personnel, such as clerks (which in many States is a common practice). Furthermore, the codes generally place no concrete limitations on who may file a complaint or petition except to require that it be a "reputable person" with reasonable cause "to believe a child should come within the jurisdiction of the court." In those States without formal screening procedures, this void could be significant. Without screening, there is even greater likelihood that baseless complaints could result in unwarranted or ill-advised intervention by the courts.

In determining the question of whether to detain or not, most States provide several options to detention. The vast majority of States, even where custody is sought via summons (as opposed to arrest), the signed promise of the parent or guardian to bring the youth to court for the scheduled appearance is generally sufficient. Many states also have some provision for judicial review of the decision to detain, but again the codes vary widely in their coverage and specificity. A salient point which Sarri and Levin make in this regard is that despite the important element of having a detention review process, if clear and definitive standards are not set forth as to which factors are to be considered at such hearings, then their usefulness is seriously undermined. This observation is particularly significant in regard to youths who are placed into the status offender/dependency jurisdictional categories. The reason is that as a result of their distinctive posture as noncriminal, they may be afforded even fewer due process guarantees than delinquent youths and subsequently be placed in a more vulnerable position in terms of possible abuse. Although the procedures of the detention review hearing should allow for discretion, the decision to detain a juvenile should be firmly based upon a clearly written set of standards, as suggested and discussed by Pappenfort and Young (79, pp. 138-141).

As with code provisions concerning decisions to detain, the code coverage regarding the types of facilities in which juveniles may or may not be detained, and with whom, are still somewhat general and elusive in many States, although efforts to clarify the codes in this regard are reported to be having an effect in New York and New Jersey as of this writing. Although it is true that a number of States have recently proposed or passed legislation which takes significant strides in limiting the use of detention and prohibiting the mixing of adult offenders with juveniles (98)*, it is also a fact that there is little attention in these legislative changes to the matters of monitoring to ensure compliance or sanctions for failures to comply (98). While these are very complicated and potentially expensive areas of concern for States to address, unless the codes have meaningful enforcement clauses they become mere lip service to an ideal.

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*These reports indicate that the above noted legislation appears to be largely in response to the Federal Act and directed at the status offense client.

Current Trends in the Detention Area

As indicated above,* the Federal government, through the 1974 and 1977 Juvenile Justice and Delinquency Prevention Acts, has taken the lead in legislative programming to deinstitutionalize status offenders and to separate adults from juveniles (including status offenders) in institutions. The Act seeks to ensure the protection of the constitutional rights of young people not to be deprived of their liberty without due process of law. It does so by mandating that the States abandon their use of juvenile detention or correctional facilities for "juveniles who are charged with or who have committed offenses that would not be criminal if committed by an adult, or such non-offenders as dependent or neglected children."* The Act further states that where some type of placement facility is used, it must be the "least restrictive alternative appropriate to the needs of the child and the community."** Under the 1974 Act, States were required to use "shelter care" and other community-based facilities as an alternative to detention or correctional facilities.** Some States have interpreted the Act to require the use of "shelter care facility," which has created some confusion among the States.*** In order to clarify this matter, the 1977 amendments made it clear that other alternatives (e.g., home detention) are to be used as well (38, pp. 58-59).****

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*See Juvenile Justice and Delinquency Prevention Act of 1974, as amended, Section 223(a)12A and B; 223(a)13; and 223(c).

**See Juvenile Justice and Delinquency Prevention Act of 1974, as amended, Section 223(a)(12B).

***For a comprehensive discussion of the definitional problems and other related problems with the "shelter care" concept in relation to other detention and correctional facilities, see Council of State Governments (38). The appendix of that publication contains the definitional and regulatory provisions of the State codes concerning detention, in addition to other related statutory analysis.

****Also see 1977 amendments, Section 223(c).

Since State participation in the Federal block grant program must be elective in order to avoid constitutional challenge, the acceptance of Federal dollars by a State constitutes the sole basis of the Federal right to require compliance. Nevertheless, as of June 30, 1977, some 40 States and six territories were participating in the Act (98).* Furthermore, since many of the 1977 Amendments were designed to enhance the incentives for State participation, there seems to be a strong likelihood of continued participation by the majority of States.

While such participation cannot ensure the effective implementation of legislation which will deinstitutionalize and divert status offenders from the juvenile justice system, the acceptance of the principles and spirit of the Act by such a large number of States is clearly having a stimulating effect on State juvenile justice legislation in the deinstitutionalization area. For example, as of June 30, 1977, no fewer than 14 States had either proposed or passed legislation concerning deinstitutionalization and the elimination of detention facilities for status offender youths (98). Though some had legislation prior to the Act, the vast majority of legislation passed was to enhance compliance with it.

Data are lacking on many of the significant issues related to detention of status offenders, i.e., States requiring predetention hearings, States which require the separation of status offenders and delinquents, and States requiring non-secure detention for status offenders. Figure 5 (p. 52), however, addresses the issue of the detention of juveniles (status, delinquent, and dependent) with adults. Of the 47 States which permit detention of juveniles and adults in the same facilities, the figures present the frequency distribution of conditions applied to such detention.

In summary, the statutory authority within the States regarding limitations and controls on the detention of youths who are accused of or who have committed status offenses remains vague in many regards. The nation is at a unique juncture in juvenile

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*More current data regarding State participation and compliance are being gathered by the National Center for Juvenile Justice. Preliminary review appears to indicate a significant upward trend in State participation and legislative compliance.

FIGURE 5

FREQUENCY DISTRIBUTION OF CONDITIONS UNDER WHICH JUVENILES CAN BE DETAINED WITHIN THE SAME FACILITY WITH ADULTS*

CONDITION	FREQUENCY	
	N	%
1. CHILD SHALL HAVE NO CONTACT WITH ADULTS	43	91.5
2. CHILD SHALL NOT BE IN SAME CELL WITH ADULTS	5	10.6
3. NO JUVENILE FACILITIES ARE AVAILABLE	13	27.6
4. BY COURT ORDER	5	10.6
5. JUVENILE IS A MENACE TO COMMUNITY	8	17.0
6. CHILD IS OVER 14	2	4.2
7. CHILD IS OVER 15	2	4.2
8. CHILD IS OVER 16	2	4.2
9. CHILD IS OVER 17	1	2.1

* 47 STATES (92%) PERMIT THE DETENTION OF JUVENILES IN THE SAME FACILITY WITH ADULTS UNDER CERTAIN CONDITIONS. COLUMN TOTALS ADD TO MORE THAN 47 AND 100%, RESPECTIVELY, SINCE SOME STATES ATTACH MORE THAN ONE CONDITION TO SUCH DETENTION.

SOURCE: ADAPTED FROM PENNSYLVANIA JOINT COUNCIL ON THE CRIMINAL JUSTICE SYSTEM, THE JUVENILE STATUS OFFENDER AND THE LAW (PENNSYLVANIA JOINT COUNCIL ON THE CRIMINAL JUSTICE SYSTEM, APRIL 1977), P. 17.

justice history, however, for States are now in a better position than ever to enhance their technical and financial resources in order to legislate innovatively the solutions to these present statutory shortcomings.

Adjudication

The adjudicatory hearing is to the juvenile court system what the criminal trial is to the adult system. While State legislation concerning juvenile adjudicatory hearings has taken on a more formalized character because of the landmark *Gault* and *Winship* decisions which mandated the incorporation of certain minimum due process guarantees during juvenile court proceedings, a wide gap still exists between the constitutional rights and guarantees afforded adults and those afforded juveniles.

For example, adult trial is characterized by a formal, adversarial public hearing, where judge or jury must find, beyond a reasonable doubt, that specific elements of a specific crime have been established in accordance with recognized rules of evidence. The juvenile adjudicatory hearing, on the other hand, is commonly informal, closed to the public, and heard before a judge or referee (not a jury), who finds beyond a reasonable doubt that there are sufficient facts to warrant the State's intervention into the child's life, based on information rather than formal evidence. Many code provisions are now requiring that evidence be presented by a prosecuting attorney, and most require, in accordance with *Gault*, that counsel be available to the youths involved.

The argument, here again, often forms along the lines of those in favor the protective/therapy model of the juvenile court versus those who favor a due process approach to youths' rights. Those seeking to make the treatment model viable argue that the adversarial context further hampers child development and inhibits the rehabilitative process. Thus far, the courts have continued to support this view and have applied this rationale to uphold the *parens patriae* concept. Children's rights advocates, on the other hand, argue that the practical realities reveal a continuing abuse and deprivation of the rights of children under the guise of treatment. They therefore adhere to the position that the only way to ensure fairness and justice is to ensure due process.

The State legislatures are presently struggling, with varying degrees of success, with issues in this area as with the detention problem. Even where legislation has been passed to ensure the provision of due process rights for juveniles, the impact of such legislation, in relation to status offenders, is often severely undermined by the broad definitional context in which most States place them. For example, because minimal evidence of misbehavior can often satisfy vague status offender definitional statutes, even where other procedural safeguards are in effect, the child is unable to adequately defend him/herself. Unlike the situation with many delinquent children, the complainants in many status offense petitions are parents. As one writer points out, because the conduct condemned is in vague terms relating in one form or another to loss of parental control, an often "disparate group of individuals has been vested with awesome prosecutional discretion. Thus, whether a child will be brought to court depends less upon his or her conduct than upon the fortuitous circumstances of parental tolerance and maturity" (121, pp. 1097-1165). This factor, which affects the adjudicatory hearing process, is rarely taken into account by the legislation. In fact, in several States, procedures followed in adjudication hearings for delinquents and status offenders are identical. Generally, where a distinction is drawn, a lesser standard of evidence is required for status offenders since the court is prone to take jurisdiction under the auspices of aiding the child.

Dispositions

To enable the juvenile courts to carry out their statutory mandate, which is generally stated in terms of "rehabilitative training and treatment," most States have developed a variety of dispositional alternatives for dealing with juvenile clients following adjudication of waiver of such procedures. These range from informal supervision, probation, foster home care, and shelter care facilities to private and public institutions and adult jails.

Generally, these dispositions are provided as a result of interaction among a number of State and local agencies (e.g., corrections, health, and welfare); thus there are often some administrative regulations covering disposition of juvenile court cases. As in other areas of juvenile justice legislation, however, the statutory material covering the lines of authority and procedural steps to be followed in dispositional decision-making is generally unclear and sparse. Thus, once again, a situation exists where the juvenile court is empowered with a wide range of discretion over those under its jurisdiction. Proponents of such discretion argue that it is a necessary element in order for the courts to carry out their rehabilitative goals. On the other hand, opponents argue that the absence of statutory standards increases the likelihood of arbitrary action and that it is too easy for dispositions to be based on administrative expediency rather than on the best interests of the child.

Beyond the broader issue of procedural due process, the key point of the disposition controversy as it relates to status offense legislation lies in the concern over deinstitutionalization of noncriminal youths and their separation from juvenile "law violators" (delinquents) and adult criminals. Although, as noted earlier, the majority of States have a separate status offender category, often this may serve as merely a labeling device because it too often does not necessarily ensure that youths engaged in noncriminal misbehavior will be treated separately or differently from youths alleged to be involved in criminal law violations.

Since this issue is specifically addressed by the Juvenile Justice and Delinquency Prevention Act of 1974 and the 1977 Amendments,* deinstitutionalization and separation have become central concerns to State juvenile justice planners in the disposition, as well as in the detention, area. Nevertheless, at present, the majority of States statutorily allow status offenders to be treated in the same institutions as delinquent children under most circumstances.* Many of these States have either recently passed or are now considering provisions to enhance further the possibility of providing separate dispositional alternatives for noncriminal court wards, including status offenders. Most, however, are unwilling or unable to relinquish totally the juvenile court's ability to place a youth in a delinquent institution or program, when other alternatives are unavailable or when they have been tried and shown to have failed.

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*See pp. 54-55 above.

While some critics of the 1974 Act are more concerned with its effect upon the court's loss of authority than with the reduction in number of dispositional alternatives, several States that were contacted in the course of this study indicated the latter as a major inhibitor to their ability to meet the requirements and objectives of the Federal legislation.

Nevertheless, the majority of States have continued participation and are striving to develop alternatives that will comply with the spirit and letter of the Federal Act. One example of a State's comprehensive effort to adequately anticipate the costs and programs needed to implement new dispositional alternatives for status offender youths is revealed by the efforts of the recently enacted Washington legislation mentioned above (81). In 1975-76, the Washington State legislature, moving toward deinstitutionalization, enacted certain changes in dispositional alternatives for delinquent and dependent incorrigible youths. At the same time, they required the Department of Social and Health Services to prepare a report including (1) an inventory of services available for incorrigibles, (2) the efforts of the Department to augment such services, and (3) a fiscal impact statement of the changes in the Act (81).

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*It should be noted that some States, although not providing for the separation or deinstitutionalization of status offenders by statute, do have administrative restrictions on the placement of status offenders into certain State juvenile institutions.

As a result of extensive staff efforts, the legislature was provided the necessary information on which substantive statutory changes in the dispositional handling of status offender youths could be made. Thus in June 1977, such changes were enacted into law. The legislation, in addition to its other features, provides an extensive array of procedural safeguards. These include, for example, the right of children to bring their own petitions and to have an attorney appointed to do so if necessary; narrowly prescribed regulations regarding status offender detention; and specific standards for adjudicatory and dispositional phases of juvenile court proceedings. Although exact figures as to the division of State and Federal expenditures to implement this legislation were not known at the time of this writing, it was estimated that the State would spend some four million dollars during the next biennium in order to increase specialized foster care programs, crisis intervention teams, community diversion programs, and vocational programs (81, p. 62).

For those States which are not ready to completely decriminalize status offenses but who are seeking to re-examine their own approach to dispositional alternatives for status offender youths, the Washington experience seems to provide an excellent foundation for the development and implementation of new legislation.

The distribution of statutorily approved dispositional alternatives in terms of whether statutes give unregulated permission to use the alternative for status offenders, permit it only under certain circumstances, or prohibit the disposition outright, is presented in figure 6 (p. 58). Some points may be made which are salient to the discussion above: first, about 25% of the States permit placing status offenders in institutions for dependent children. Second, in over half of the States, placement in

FIGURE 6

DISPOSITIONAL ALTERNATIVES* FOR STATUS OFFENDERS: PERCENTAGE OF STATES HAVING STATUTORY AUTHORITY BY ALTERNATIVE (N = 51)

ALTERNATIVE / AUTHORITY	PERMITTED		PERMITTED/SPECIFIC CONDITION		PROHIBITED	
	N	%	N	%	N	%
DISMISS CASE	7	13.7	0	0	0	0
REMAIN AT HOME	35	68.6	0	0	0	0
PROTECTIVE SUPERVISION	26	51.0	0	0	0	0
PROBATION	40	78.4	2	3.9	0	0
EXCUSE FROM SCHOOL	2	3.9	0	0	0	0
FINE, RESTITUTION	13	25.5	0	0	0	0
SUPERVISED WORK PROGRAM	6	11.8	0	0	0	0
OUT OF HOME PLACEMENT WITH:						
• FRIEND, RELATIVE	23	45.1	0	0	0	0
• FOSTER HOME	15	29.4	0	0	0	0
• INSTITUTION FOR DEPENDENT CHILDREN	13	25.5	0	0	0	0
• INSTITUTION FOR DELINQUENT CHILDREN	18	35.3	9	17.6	12	23.5
• INSTITUTION FOR ADULT OFFENDERS	5	9.8	0	0	8	15.7
• PRIVATE AGENCY	19	37.2	0	0	0	0
TRANSFER LEGAL CUSTODY TO:						
• FRIEND, RELATIVE	16	31.4	0	0	0	0
• PRIVATE AGENCY	28	54.9	0	0	0	0
• PUBLIC AGENCY, INSTITUTION	12	23.5	0	0	0	0
• PROBATION DEPARTMENT	4	7.8	0	0	0	0
• COUNTY DEPARTMENT OF WELFARE	11	21.6	0	0	0	0
• STATE DEPARTMENT OF WELFARE	23	45.1	1	2.0	0	0
• STATE DEPARTMENT OF JUSTICE-CORRECTIONS	5	9.8	5	9.8	0	0

SOURCE: ADAPTED FROM PENNSYLVANIA JOINT COUNCIL ON THE CRIMINAL JUSTICE SYSTEM, THE JUVENILE STATUS OFFENDER AND THE LAW (PJCCJS: APRIL 1977) PP 23-25

* BY THE JUVENILE COURT

NATIONAL JUVENILE JUSTICE SYSTEM ASSESSMENT CENTER

institutions for delinquents is either permitted generally or under certain circumstances, while in another 23% of the cases, it is expressly prohibited. Third, a similar ambivalence is shown in statutes which regulate the placement of status offenders in adult institutions: in nearly 10% of the States, such placement is permitted, while only 16% prohibit this practice.

CONCLUSION

There is widespread variation among the States regarding both the content and application of laws relating to juvenile codes generally, and particularly in relation to the specific dimensions of status offender legislation covered here. The fact is that there are still many unknowns regarding so-called status offender youths. The quest for solutions to the many complex problems facing State juvenile justice planners and legislators of how to handle these children is still in the embryonic stage of development. This circumstance, combined with the limitations under which this assessment was conducted, restricts efforts to offer definitive solutions at this point, or even to draw conclusions regarding the state-of-the-art of status offender legislation generally. Nevertheless, based upon preliminary research and findings, there are some general observations that can be made.

It is clear that the question of how to deal with noncriminal "adolescent misbehavior" has become a major issue facing the States and that to a great extent it has been recognized as such by State legislators. Still, as noted above, the current state of knowledge and development is generally rudimentary in this area.

From a broader philosophical perspective, it is important to realize that the nation is truly in the midst of a dynamic and historical era in the juvenile justice field. Federal and State court decisions have continued in the last decade to demand greater recognition of the rights of juveniles. The law is shifting its emphasis regarding children from a position which treats children as objects of societal and parental discretion to a position which treats them as individuals with inherent rights which are entitled to protection. Yet it has only been within the last five years that the Congress has put forth a national policy which attempts to provide a comprehensive approach to improving the plight of incarcerated nondelinquent youths. Many States seem to be endeavoring to find legislative alternatives to conventional processing methods and incarceration of children evidencing status offense type behaviors.

Focusing more directly on individual States' statutes regarding status offense behaviors and detained youths, it appears that a common failing of many of the past legislative initiatives has been their limited approach to the problem. Such legislative efforts have revealed a basic lack of understanding regarding the nature of the problems of noncriminal adolescents, the family, and the inherent weakness of attempting to deal with them in a "fault" or criminal context. Worse yet, merely relabeling these children without providing resources for truly separate and constructive treatment has served to perpetuate the myth of rehabilitation and contributed to the exposure of countless thousands of children to destructive and dangerous environments.

States are now in the process of changing legislation to meet more comprehensive standards for treating noncriminal youths as distinct from criminal type delinquents. As previous observers have already noted, however, legislative initiatives alone will not suffice to change and improve the juvenile justice system.

A review of previous studies into status offender legislation and of present legislative efforts provides the distinct impression that bureaucratic systems generally, and the agencies operating within the juvenile justice system in particular, often attempt to adapt or distort imposed legislation to meet their own institutionalized needs rather than to suit the best interests of the clients they are supposed to be serving. This may take one of many forms; for example, relabeling status offenders as delinquents where a jurisdiction lacks adequate facilities to separate them but wishes to be in compliance with the Federal Act; locking status offenders in solitary confinement because this is the only available separate facility; impoundment of funds for nondelinquent youth programs due to a battle between governmental authorities at various levels over jurisdictional autonomy. These reflect but a few areas for potential abuse.

Such circumstances are not unique to the juvenile justice realm. They are likely to be encountered in any situation where human nature is involved. Here, however, the lives and futures of vulnerable children are often at stake. Thus, legislative initiatives in the States must provide comprehensive planning and adequate resources to implement nondelinquent youth programs for juveniles who demonstrate a need for such programs. Beyond that, however, they must also build into their legislation mechanisms which will ensure accountability for delivery of services, which will also protect children's rights and interests.

One such mechanism which is receiving increased attention by the Federal government, and which is operational in some States, is the independent youth advocacy service. These are generally non-profit operations staffed by attorneys, social workers, or in some cases a combination of the two, exclusively serving to protect the rights and interests of their young clients and seeking to ensure that agencies providing service to children are adequately carrying out their mandates.

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CHAPTER IV

STATUS OFFENDERS AND JUVENILE JUSTICE SYSTEM PROCESSING

INTRODUCTION

To gather and analyze statistical data on one juvenile justice system in order to attempt to comprehend its operation (e.g., inputs, decisions, and outcomes), as well as the interrelationships among its component agencies, is a monumental task. An effort to accomplish this task comprehensively on a national level by synthesizing data gathered on a national, State, and jurisdictional level, with the objective of assessing the processing of status offenders nationally, would require resources beyond the scope of this assessment. Obviously, each information source collects data for different purposes. An attempt to combine data presented in different forms, for varying time periods, and with significant data omissions, raises serious questions regarding the reliability and validity of the resulting data.

In spite of the complexity, limitations, and incompleteness of the available data on status offender processing by the juvenile justice system, innovations are being planned, large amounts of money are being spent, and juveniles continue to be subjected to the procedures and activities of the system. It is because of the tremendous need to find out the current situation regarding status offenders that this effort to examine the functioning of the system is worth attempting at this time. Although the findings by themselves are also probably suspect (due to differences in State statutes applying the status offender label, variations in local practice and values, and the dynamic nature of the phenomenon) they may, if taken together with information from other sources such as previous studies on the status offender, provide some further insight into the status offender situation. In addition, the exploration of the data on status offenders will assist in pointing out some of the major deficiencies in data collection, present gaps in knowledge, and provide an indication of areas of unmet juvenile needs. Therefore, this chapter will attempt to assess the present availability of empirical data on the status offender and the juvenile justice system, as well as develop a foundation for a better understanding of the juvenile justice system's processing of the status offender. It must be stressed at the outset that this endeavor is exploratory in nature and, therefore, findings should be considered tentative and preliminary.

ASSESSMENT OF DATA SOURCES

Federal Bureau of Investigation, Uniform Crime Reports (UCR)

The Uniform Crime Reports are produced annually by the FBI based upon data provided by law enforcement agencies throughout the nation. These agencies are supposed to contribute data according to uniform classifications and procedures of reporting. Since the data on offenses known to the police (cleared arrests) are more generally available to police departments, the Committee on Uniform Crime Records of the International Association of Chiefs of Police chose to obtain data on offenses that became known to police. Therefore, UCR data are limited to police arrests. The fundamental objective of the Uniform Crime Reports program is to produce a reliable set of criminal statistics on a national basis for use in law enforcement administration, operation and management.

The Uniform Crime Reports collect some data on the extent of status offenses known to the police. These data are collected annually under the categories of juvenile curfew and loitering violations and juvenile runaways. The Uniform Crime Reporting system defines the crime categories of curfew and loitering laws and runaways as follows:

- Curfew and loitering laws (juveniles) -- offense relating to violation of local curfew or loitering ordinances where such laws exist.

- Runaway (juveniles) -- limited to juveniles taken into protective custody under provision of local statutes as runaways.

Applying information from an analysis of UCR on the two reported status offenses can provide a partial indication of the extent of status offense arrests nationally. Therefore, UCR is useful as an indication of national trends of police arrests of a limited number of status offenses. However, for purposes of this assessment, UCR data have certain limitations:

- No arrest data are presented on truancy, ungovernability, incorrigibility, and possessing or using drugs/alcohol.
- No information is collected regarding how police ultimately handle the arrest, or what is done with the juvenile by the other components of the juvenile justice system.
- Data are not broken down by geographic area.
- The variation in the number of reporting agencies each year may tend to distort analysis of trends.
- Status offenders are described only in terms of age, sex and race.
- Loitering is often not a status offense; however, curfew and loitering offenses are grouped together and cannot be separated.

The major deficiency in using UCR exclusively for an understanding of status offenders is that the number of arrests of status offenders is only a portion of the total picture. Information relating to police contacts not resulting in arrest, court action and correction activity is needed.

National Center for Juvenile Justice, National Juvenile Court Statistics*

The juvenile court statistics project was inaugurated in 1926 by the U.S. Department of Labor, Children's Bureau. Since 1926, several modifications of reporting procedures, contents and objectives of the project have occurred. In 1952, the reports were limited to a simple count of cases of children referred to juvenile courts for delinquency, dependency or neglect, and of cases involving special proceedings. While the reduction in data collected may have had the desired effect of increasing the number of courts reporting, it has resulted in the data being of little use for this endeavor. The report can provide a general indication of juvenile court volume for the above types of cases; however, it contains no data on status offenders. This omission is a serious one because the processing of status offense cases by the juvenile court accounts for a significant portion of juvenile court activity.

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*National Center for Juvenile Justice, 3900 Forbes Avenue, Pittsburgh, Pennsylvania 15260.

Children in Custody Reports, U.S. Department of Justice

The first major census of juvenile detention and correctional facilities was produced in 1971. Prior to 1971, HEW conducted a series of annual surveys of public facilities limited to those establishments primarily housing adjudicated juveniles. The 1974 report, which is based upon data collected by the Bureau of the Census, covers residential facilities that serve juveniles awaiting court action as well as those already adjudicated. Detention centers, shelters, correctional facilities, and reception or diagnostic centers are included, both public and private. The most recent report (1977), based upon 1975 data, provides additional selected characteristics of public and private detention and correctional facilities.

The major problem with using the 1974 report as a source of information regarding status offender detention and institutionalization is that large groups of data are missing in the tables. For example, there is a significant number of adjudicated juveniles for whom no offense data are available. Unfortunately, the number is of a magnitude that the utility of the data for purposes of this assessment is limited; however, the 1977 report is a substantial improvement. The juvenile populations in the facilities for both years (1974-1975) continue not to subdivide into pre- and post-adjudicated stages. Thus it is impossible to know if a status offense case in detention is awaiting trial or has already been tried. The data on characteristics of the juveniles in the facilities are limited to sex and offense. The length of stay for each type of facility is also lacking. Therefore, there is no way of knowing whether large numbers of status offense juveniles enter the facility and stay for short periods of time, or fewer status offenders are detained for longer periods. In addition, detention and correctional facilities are grouped together, and it is impossible to make the distinction between a detention center and other types of correctional facilities, although it is recognized that in some jurisdictions such a distinction is not made.

The categories labeled "PINS" or "status offenders" are generally too broad for a comprehensive analysis of detained or institutionalized juvenile status offenders. There is no identification of the type of status offense (e.g., ungovernable, runaway, truant) in relation to detention and institutionalization populations.

State and Jurisdiction Data

An information-gathering system may be assessed along two dimensions. The first is the internal consistency of the system, or the relationship of the component parts to the whole. The second dimension is that of the system's context, its relationship to the general milieu in which its client population, in this case the status offender, makes his or her way.

A major finding is that because of fragmentation among the agencies that make up the information system, available data often do not relate to priorities of consistent, formal, client-oriented decision-making. That is, data collection appears to be primarily a management device for budget, personnel, equipment control, and population accounting. Data are only incidentally oriented toward needs assessment or system analysis (68; 69; 84; 85).

STATUS OFFENDER CHARACTERISTICS

Knowledge on an individual basis about the status offender population seems a basic requisite for the assessment of their needs, the planning of programs that meet those needs, and the monitoring of system performance.

Most of the data assembled lack adequate demographic data on the age, sex, and race of status offenders. Police reporting systems often recorded this information for curfew/loitering and runaway offenders, undoubtedly as a byproduct of FBI data requirements. Data on the socioeconomic status or family situations of status offenders were rare.

Data describing the various dimensions of status offenders' needs were nowhere evident. This leads to three possible conclusions: decisions affecting the processing of status offenders may either be made on the basis of formal intra-agency guidelines which were not available, on the basis of the decision-maker's subjective judgment, or on a basis which remains essentially unrecorded. Whatever the case, as the rest of the discussion will demonstrate, assessing the validity of that decision-making process is difficult.

INTERNAL RELATIONS OF THE SYSTEM

On the county level, juvenile justice system agencies collect data on their particular component of the juvenile justice system with varying degrees of thoroughness. They rarely collect data on a given system as a whole. On the State level, statistics are centrally collected and collated to reflect summary aspects of jurisdictions rather than an integrated Statewide system. As a result, many cases are lost as they travel between agencies and jurisdictions. For example, the number of cases referred to juvenile court by the police may not equal the number of cases received by the court from the police.

EXTERNAL RELATIONS OF THE SYSTEM

The third point of critique has to do with the relationship between the juvenile justice system and society as a whole, particularly those institutions which impact on the welfare of the status offender, e.g., the family, the school, and the workplace. Information on the interface between system and community will increase in importance as efforts continue to vest responsibility for the status offender's needs in the community.

Little is known, for example, about dimensions of the status offender referral process. It is axiomatic that the vast majority of status offender referrals to court are made by the police, but there are no data comparing the characteristics of status offenders referred by the police to characteristics of status offenders referred by schools, welfare agencies, or parents.

Only one State (Nebraska) provided information on the involvement of youth with other agencies while under the jurisdiction of the system. Knowledge about the youth's relationship to the school, potential or actual aid being provided by welfare agencies, employment needs of the youth or the youth's parents, and health needs of the family seem to be fundamental requirements for the efficient articulation of needs and services. Where such information is not routinely collected, one can only assume it is not known, and the danger exists that the status offender's problem will emerge and continue to be conceived of as law enforcement problem rather than more broadly perceived as a community social service and family functioning problem.

Finally, follow-up data are lacking for the large proportion of status offenders who are channeled or referred out of the system at each decision-making point. This is true both for cases subject to diversion and cases that are handled informally by police, intake, and the courts. It is not known what sort of cases are deferred, nor what information conditions are attached to deferred processing, or what the eventual outcomes are. Most importantly, the system appears to have limited resources to monitor and evaluate the delivery of services for status offenders referred to programs.

Again, this seems to present an obstacle to the goal of maintaining and servicing the status offender in the community.

DISCUSSION OF DATA COLLECTION PROBLEMS

This discussion has attempted to point out the major deficiencies in the available data on status offenders as they relate to the provision of services, rather than primarily to the needs of research. The implicit plea for better coordinated data collection raises both practical and ethical problems. The practical problem is that advanced data collection techniques may be beyond the economic reach of many jurisdictions. The ethical problem is that a unified information system may serve as an advanced technique for social control. Two general suggestions come to mind.

The first suggestion is that, where data collection is within the domain of the juvenile justice system, it be structured and maintained so that the system can be held accountable for its actions, as well as for the client. This kind of information would provide both a check on informal procedures and the imposition of arbitrary sanctions, as well as a yardstick for assessing system performance and responsibility. This could be achieved concretely perhaps, by vesting data collection responsibilities in an agency formally separate from police, courts, or corrections, working cooperatively with these agencies to assist them in meeting their operational data needs at the same time the agency gathers and analyzes other kinds of data. It might be difficult to obtain support for this approach from existing agencies, however.

The second suggestion is that some system of information exchange be established between the components of the system and other service agencies in the community. The same possibilities for social control exist here, of course, and on a larger scale. Therefore, it must be emphasized that a sound assessment of needs and services, and the establishment of formal, non-discretionary policies for providing those services are absolute prerequisites to the establishment of a useful data-collection system. Lacking these prerequisites, information will continue to be a management convenience to each unit and a hindrance to research and accountability of the juvenile justice system and community services.

A REVIEW OF DATA ON JUVENILE JUSTICE SYSTEM PROCESSING OF THE STATUS OFFENDER

In spite of the limitations of data, as discussed earlier, an analysis of the data gathered from various sources at the Federal, State, and jurisdictional level will provide a useful picture of the activities of the juvenile justice system in regard to the status offender and assist in pointing out some of the major problems, issues, and deficiencies. In a sense, the bits and pieces of data gathered, arrayed, and analyzed can be formulated to describe the significant aspects for each selected point in the process in regard to the processing of the status offender. From a national perspective, this approach is fraught with reliability and validity problems. As mentioned earlier, States and jurisdictions use different labels for status offenders and collect selected data elements for different periods of time.

The data are organized and analyzed in relation to the following major points in the process:

- arrest
- intake
- detention
- adjudication and disposition
- institutionalization and programs.

The information is presented by first discussing the data in relation to the point in the process, then presenting a listing of major findings, followed by a discussion of policy implications of the findings. The final section of the chapter will summarize the chapter and discuss conclusions and recommendations. To assist in conceptualizing the system context of these major points in the process, a generalized flow chart of the juvenile justice system is provided (figure 7, p. 73) as well as a more specific statistical flow chart to serve as an example utilizing California data (figure 8, p. 74).

The Arrest of Status Offenders

The majority of juveniles entering the juvenile justice system as status offenders do so as a result of a police arrest. Information regarding referrals to juvenile intake and juvenile court indicate that over 50% of status offense referrals to juvenile intake are made by the police. Next to police referrals, parents or relatives make up anywhere from 10% to 20% of status offense referrals; however, in some jurisdictions procedure requires that referrals are made to the police rather than directly to juvenile intake.

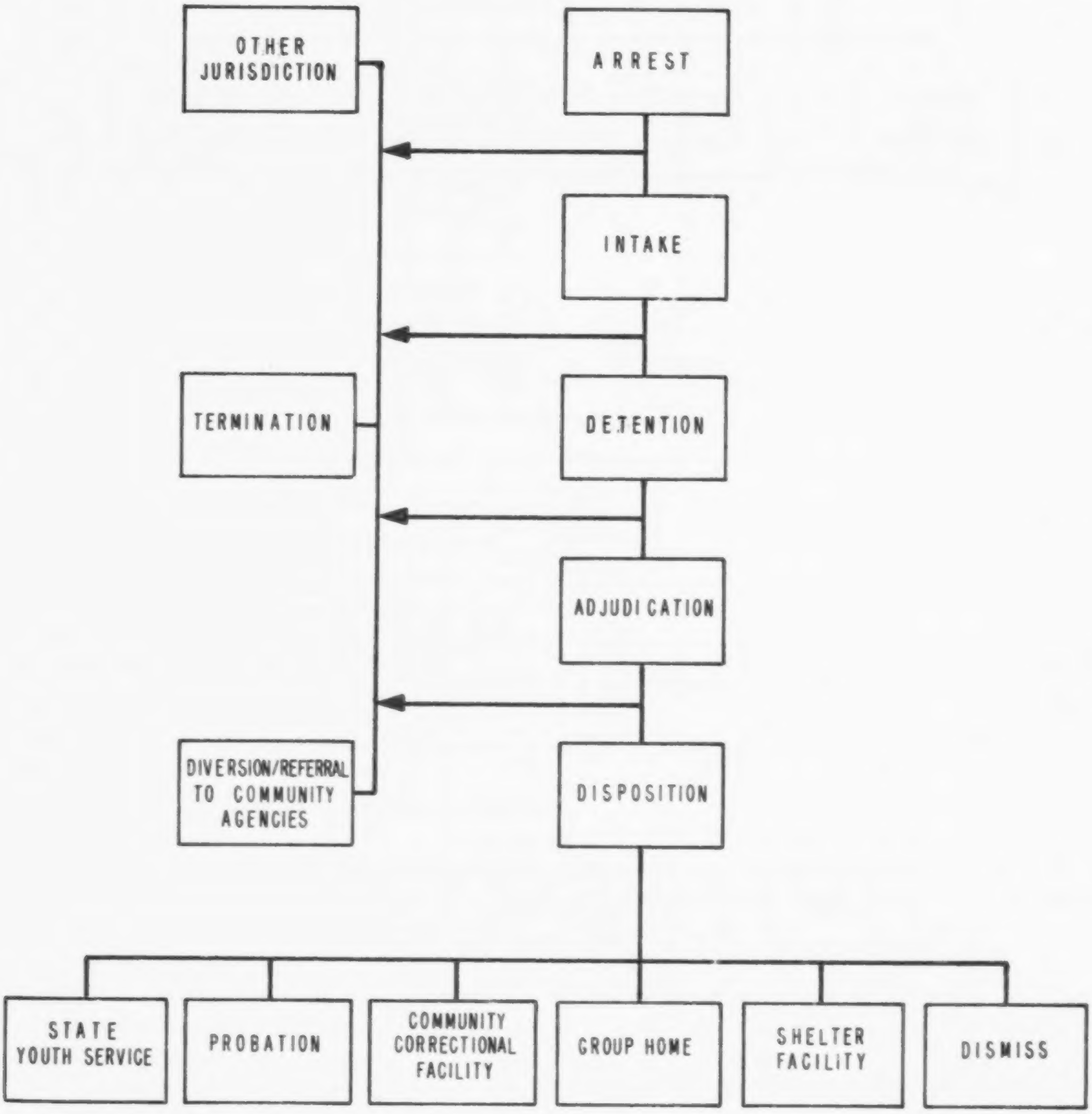
According to UCR data, status offense arrests accounted for 15% of all juvenile arrests in 1975. The most serious offenses are grouped into the FBI Part I category. In 1975, Part I juvenile arrests made up 40% of all juvenile arrests. The remaining offenses, generally regarded as misdemeanors, are grouped under Part II offenses. Juvenile arrests for Part II offenses were 46% of all juvenile arrests in 1975.

Juvenile runaway arrests reported by the FBI in 1975 were 9% of all juvenile arrests. Grouping curfew and loitering arrests together accounted for 6% of all juvenile arrests (45, tables 32 and 34). The proportion of status offense arrests to Part I and Part II arrests had remained generally constant for each year from 1972 to 1975 (see figure 9, p. 75).

Between 1973 and 1975, status offense arrests appeared to decrease 9% while Part I and Part II arrests increased 15%. Looking more closely at the decrease in status offense arrests, curfew and loitering arrests showed the greater decrease of 14% as compared to a 9% decrease for runaway arrests (44, table 29; 45, tables 32 and 34). Therefore, it appears that juveniles are being arrested more for misdemeanor offenses than status or Part I offenses.

FIGURE 7

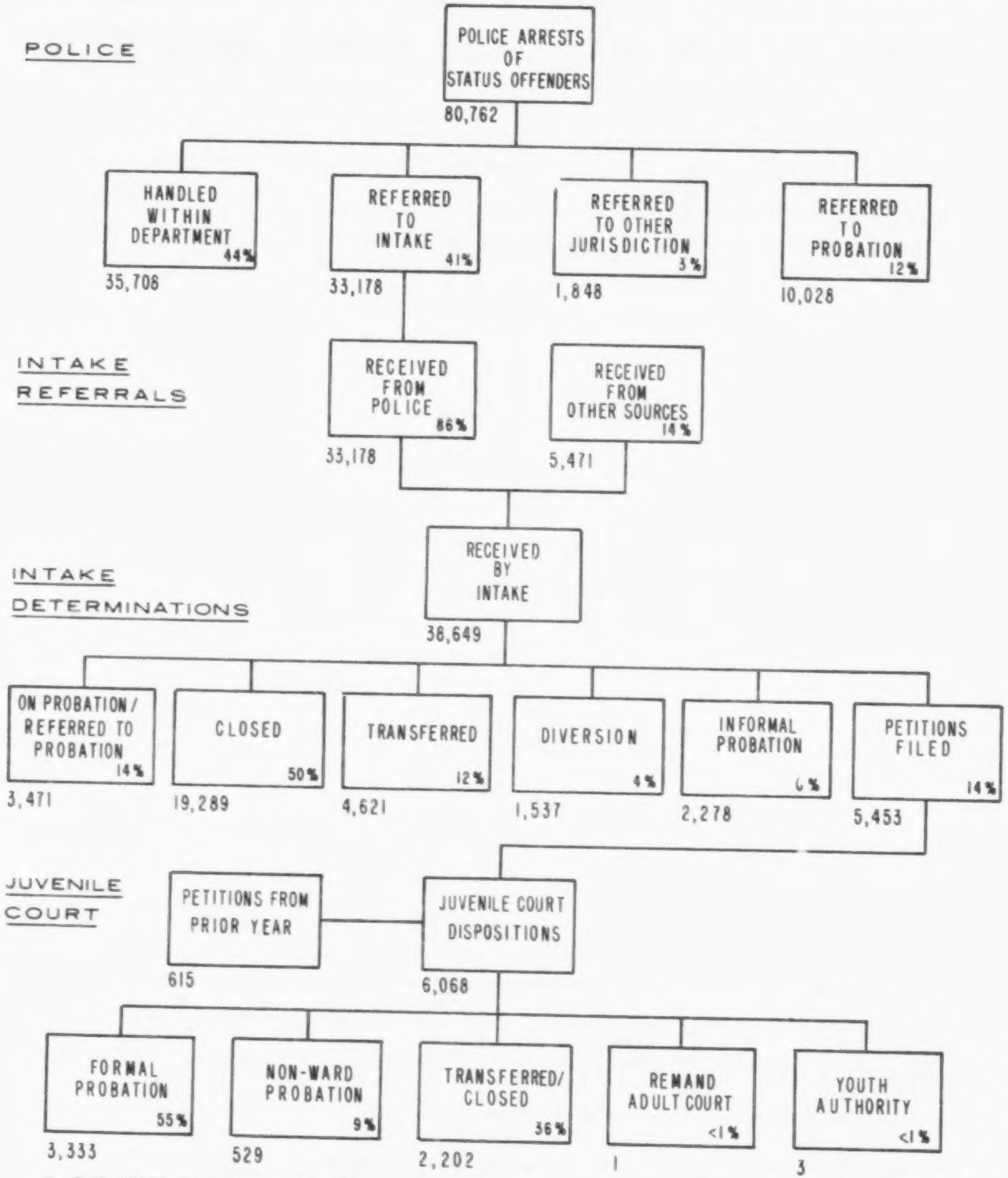
GENERALIZED FLOW CHART OF THE JUVENILE JUSTICE SYSTEM



NATIONAL JUVENILE JUSTICE SYSTEM ASSESSMENT CENTER

FIGURE 8

JUVENILE JUSTICE PROCESSING OF STATUS OFFENDERS
CALIFORNIA, 1976*



* FLOW CHART DEVELOPED BY NATIONAL JUVENILE JUSTICE SYSTEM ASSESSMENT CENTER FROM DATA PROVIDED BY CALIFORNIA BUREAU OF CRIMINAL STATISTICS.

NATIONAL JUVENILE JUSTICE SYSTEM ASSESSMENT CENTER

FIGURE 9

STATUS OFFENSES (CURFEW/LOITERING AND RUNAWAY) PART I AND PART II ARRESTS FOR JUVENILES 18 YEARS OLD AND UNDER FOR 1972-1975

YEAR / OFFENSE	1972		1973		1974		1975		AVERAGE
	N	%	N	%	N	%	N	%	%
CURFEW/LOITERING	107,613	7	115,052	7	102,220	6	99,100	6	6.5
RUNAWAY*	169,368	11	168,643	10	151,821	9	158,460	9	9.8
PART I OFFENSES	554,895	35	588,712	36	694,576	38	713,920	39	37.0
PART II OFFENSES (EXCEPT STATUS)	723,411	47	758,315	47	810,741	46	817,945	46	46.5
TOTAL	1,555,288	100	1,630,722	100	1,759,358	100	1,789,425	100	
	(5,575 AGENCIES)		(5,575 AGENCIES)		(5,974 AGENCIES)**		(5,974 AGENCIES)		
PERCENT CHANGE IN TOTAL ARRESTS			+ 5 %		+ 8 %		+ 2 %		

* REFERS TO RUNAWAY TAKEN INTO CUSTODY BY THE POLICE

** NOTE: 7% INCREASE IN NUMBER OF REPORTING AGENCIES BETWEEN 1973-1974

SOURCE: TABLE CONSTRUCTED WITH DATA ADAPTED FROM UNIFORM CRIME REPORTS, 1973 (TABLES 29, P. 127) AND 1975 (TABLE 34, P. 186).

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The decrease in arrests for status offenses may be partly explained by recent changes in some State statutes which have decriminalized runaway behavior, or the reported practice of some police departments to either upgrade status offenses to delinquents or ignore certain types of status offenses.

Changes in the formal application of the label attached to juveniles at the other points in the process could also be occurring. In addition to police charging as delinquents juveniles who were formerly charged as status offenders, the impact of the Federal mandate to deinstitutionalize status offenders could also be influencing the adjudicative process. This relabeling phenomenon (labeling status offenders as delinquents) raises the possibility that changes in statistical rates which purportedly reflect actual changes in handling may be more superficial than substantial (106).

The majority of juveniles arrested for status offenses in 1976 were male. Females accounted for 43% of arrested status offenders. However, more than half of the runaways arrested were female (57%). On the other hand, curfew/loitering violations appear to be a male type of offense; 80% of curfew/loitering arrests were males (45, table 35). A national statistical survey of runaway youths in 1976 found that 53% of runaways were male and suggested that the predominant belief that the majority of runaways were female may be due to females being more likely to be reported missing or to seek the services of runaway houses. These two factors, especially the reporting of missing females to the police, may account for the higher percentage of females being arrested as runaways (89, p. 22).

If the age of the status offender is considered in relation to status offense arrests in 1975, it appears that 80% of the juvenile status offense arrests are for juveniles between 13-17 years with a fairly even distribution for each year from 13 to 17. Curfew/loitering arrests tend to be greater for 16 year-old males than any other group. Approximately one-third of curfew/loitering arrests are 16 years old. About one-third of the runaway arrests are 13-14 years old (45, table 36).

Although UCR data indicate that in 1975, status offense arrests accounted for 15% of all juvenile arrests (45, table 34), data from seven jurisdictions indicate that status offenders on the average accounted for 25% of all juvenile arrests (40; 48, p. 21; 43, pp. 31 and 32; 72).* The discrepancy between UCR and sample jurisdictional data may be explained by the fact that UCR data include only curfew/loitering and runaway arrests, whereas data from some States include truancy, ungovernability, and possession and/or drinking of alcohol in addition to curfew/loitering and runaway.

Information regarding police action following an arrest for status offenses is very limited. Statistics from California suggest that about 50% of juveniles arrested for status offenses are either referred to juvenile court or a probation department, while about 45% are handled informally by the police within the department.**

The major findings related to the arrest of juveniles as status offenders can be summarized as follows.

Major Findings at the Arrest Stage

- Based upon data from six States in 1975, approximately 25% of juvenile arrests were for status offenses. UCR data, which only include curfew/loitering and runaway, indicate that 15% of juvenile arrests were for status offenses.

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*Also, data received from Nassau County Police Department, Nassau County, New York; New Orleans, Louisiana Police Department; and printout data obtained from California Bureau of Criminal Statistics, P.O. Box 13427, Sacramento, California 95813, upon special request.

**Printout data were obtained from California Bureau of Criminal Statistics, P.O. Box 13427, Sacramento, California 95813, upon special request. It should be noted that all data submitted by BCS discussed here and elsewhere in the chapter do not include Los Angeles County.

- According to UCR data, status offenses (curfew/loitering and runaway) have decreased 9% between 1973-1975, while Part I and Part II crimes have increased 14%.

- According to 1975 UCR and data from five States, approximately 56% of runaway arrests were female.

- One-third of runaway arrests in 1975 were 13-14 years old based upon UCR data and data from four States.

- According to 1974 UCR data, females accounted for 43% of the status offense arrests (curfew/loitering and runaway). The majority of runaway arrests were female (57%), and 80% of the curfew/loitering arrests were male.

Policy Implications of Arrest Data

Due to the great limitations of arrest data either gathered by the FBI Uniform Crime Reports or by the individual States, caution must be exercised in trying to draw reliable and well-supported policy implications. The extent of the status offender problem is not very well documented by arrest data. Depending upon the source, it appears that approximately 15-25% of juvenile arrests are for status offenses. In addition, status offense arrests seem to be on the decrease whereas serious and misdemeanor juvenile arrests are gradually increasing. This finding may be due to police activity in the field, either by overlooking certain status offenses or upgrading them to delinquency offenses. On the other hand, it could also be due to the unreliability of the data itself. This caveat could also apply to the finding that status offenders are more often male, although females are predominant in the runaway arrest category. Females may in fact be more visible to the police or more likely to turn themselves in to either the police or runaway houses.

Unfortunately, arrest data for status offenses raise more questions than they answer; however, the inconclusiveness of the data may result from the limitations of arrest data generally in describing the extent and dimensions of the problem. It is likely that many potential status offenders do not come to the attention of the police until, as is so often the case with runaways, they are victims or perpetrators of crime. This may be a result of a number of factors such as the degree of police discretion, the values of the community, the availability of alternatives, and the circumstances of the family. In addition, since approximately half of the arrested status offenders are eventually released by the police without formal referral to court, it may indicate on the part of the police that the status offense arrest was more directly a decision to protect the juvenile than the safety of the community.

Juvenile Intake and the Status Offender

Most juvenile courts operate a juvenile intake service to accept complaints regarding juvenile violations from the police, other officials, parents, or other citizens. In addition to accepting complaints, juvenile intake services accept custody over youths referred. In many jurisdictions, an intake officer or worker has the authority to review a complaint or referred juvenile case and make a decision that a particular case is to be dismissed, referred to court for adjudication, or processed informally (nonjudicially). Often detention intake and court intake are combined so that the intake officer makes the initial decision, reviewed later by a judge, that a youth referred to court is to be placed in secure detention, returned home to await a hearing, or placed in some other residential setting (79, p. 31). Therefore, in addition to the police decision regarding arrest, juvenile intake is one of the major points in the process where decisions are made regarding how and whether a juvenile is to be processed further or is free to go on without further official involvement. In some jurisdictions, the intake official conducts a preliminary investigation before making a decision; however, in many cases this investigation is superficial or lacking due to limited time available or inadequate resources.

A national study by Sarri and Hasenfeld discussed a number of significant findings in relation to intake. In 23% of the courts studied, intake functions were allocated to clerks. They found that the more often clerks performed intake functions, the more decisions to file petitions were influenced by referring agencies (police) (12, p. 123). They also found that intake decisions regarding status offenders were more influenced by resource criteria (i.e., the need, availability, and sufficiency) than in delinquent cases. In status offense cases, information regarding nonoffense behavior was often used in the decision, whereas information regarding the present and past offense behavior was used in only half the cases (12, pp. 127-128). Therefore, status offense intake decisions seem to be more affected by factors such as who is making the decision, what resources were available to the decision-maker, and what are the circumstances of the juvenile (family, school), than by factors concerning the present or past offending behavior of the juvenile.

Sarri and Hasenfeld also found that the attitudes of the community toward low income families and public assistance influences the handling of status offenders. Schools and police are more likely to rely on the court to handle status-related problems related to adolescents when the family lacks the economic resources to deal with the problem. When these resources are not provided by the community through public assistance, adolescent status-related problems are more likely to be handled in a legal manner (12, p. 182). Therefore, law enforcement and social control agencies tend to define status-related problems of adolescents from lower socioeconomic families as status offenders when the community lacks the commitment or resources to assist the families of these juveniles (12, p. 82). These findings taken together tend to indicate that the availability of community resources for dealing with family and juvenile problems, as well as the resources available to those families, influences the decision of the referral source and the subsequent decision of the intake worker more often than the specific behavior of the status offender. Studies conducted in New York (130, pp. 1383-1409) and Michigan (58) tend to support this finding. These studies document the frequent observation that status offenders referred to the juvenile court and correctional programs are disproportionately poor, nonwhite, and have parents who lack needed emotional and economic resources.

Statistical data on intake decisions and activity are very limited. In addition, Pappenfort and Young, in 1975, found that many jurisdictions often lack a controlled rational intake procedure (79, p. 62). In spite of these limitations, it was found that on the average, 27% (ranging from 11%-42%) of all cases referred to intake (in five States in 1975) were status offenders (101; 56; 76; 50, p. 119; 88, p. 41) (see figure 10, p. 83). The status offense most often referred to intake is runaway. In six States, an average of 40% of the status offenders referred to juvenile intake were runaway; however, it ranged from 10% to 66% (71; 88, p. 41; 76; 55; 54).*

Generally, from the data available, it appears that approximately 50% of all status offense referrals to intake are closed by the intake officer. In four States where this type of data is available, 50% of status offense cases were closed and 28% were petitioned to the court (50, p. 119; 56; 54).** Data from California appear to be fairly representative of this situation. In 1976, 33,178 status offenses, or 26% of all juvenile offenses, were referred to juvenile intake. Fifty-eight percent were closed, 14% referred to other agencies, 5% diverted, 7% given informal probation, and 16% petitioned to the court. Although the number of status offenses referred to intake had decreased 22% since 1973, the decision distributions remain fairly constant.**

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*Also, data received from Alameda County, California, and San Francisco Juvenile Court.

**Also, printout data obtained from California Bureau of Criminal Statistics, P.O. Box 13427, Sacramento, California 95813, upon special request.

best copy available

In four States the proportion of male to female referrals appears to be evenly distributed; however, most females referred were runaways (55, p. 41; 71).* In addition, in three States over 50% of status offense referrals were white juveniles (88, p. 43; 71).*

Data on the source of the referral were available only for California* (see figure 11, p. 85). From these data for 1976, it appears that 84% of the referrals to intake were by law enforcement, 7% were by parents or relatives, and 3% were from other juvenile courts. In addition, 60% of the cases referred by law enforcement were closed by the intake officer; this was consistent with the average closing rate of 58% for all referrals regardless of referral source. On the other hand, about 16% of the cases referred to intake resulted in a petition. It is significant that juveniles referred by the school, welfare, or a lower or superior court had the greater chance of being petitioned. Possibly this may occur as a result of police referring a large number of juvenile status offenders to intake less discriminately than the schools and welfare departments.

The following list summarizes the major findings in regard to juvenile intake and the status offender.

Major Findings in Regard to the Juvenile Intake Stage

- Based on data from five States, approximately 25% of all cases referred to intake in 1975 were status offenses.
- Based on six States, runaways account for 40% of total status offenders referred to intake. In these jurisdictions, it is as high as 66% and as low as 10%.
- Data from four States indicate that approximately 50% of status offenses referred are closed at intake, approximately 28% are finally petitioned to juvenile court, and

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*Also, printout data obtained from California Bureau of Criminal Statistics, P.O. Box 13427, Sacramento, California 95813, upon special request.

FIGURE 10

REFERRALS TO INTAKE BY OFFENSE TYPE

STATE / OFFENSE	CALIFORNIA[1] (1976)		UTAH[2] (1975)		TEXAS[3] (1976)		MARYLAND[4] (1976)		VIRGINIA[5] (FY 1975 - 1976)		AVERAGE
	N	%	N	%	N	%	N	%	N	%	%
STATUS	33,178	26	7,362	30	27,708	42	6,133	11	10,689	26	27
DELINQUENT	95,695	74	16,878	70	39,032	58	49,798	89	30,164	74	73
TOTAL	128,873	100	24,240	100	66,740	100	55,931	100	40,853	100	

[1] DATA FROM BUREAU OF CRIMINAL STATISTICS PRINTOUTS

[2] DATA FROM REPORT BY JOHN HOWARD ASSOCIATION, UNIFIED CORRECTIONAL STUDY FOR STATE OF UTAH, 1976, P. 119.

[3] TEXAS JUDICIAL COUNCIL, TEXAS JUVENILE PROBATION REPORT, 1976, P. 42, TABLE 7B.

[4] DATA TAKEN FROM MARYLAND GOVERNOR'S COMMISSION ON THE ADMINISTRATION OF JUSTICE, OCTOBER 4, 1977.

[5] DATA TAKEN FROM VIRGINIA, FY 1978 COMPREHENSIVE JUSTICE PLAN, P. 35.

the remaining 22% are either referred to courts in other jurisdictions or handled informally.

- In two States where drinking and possessing alcohol are considered status offenses, these offenses accounted for 50% of status offense referrals.

- In six States, status offense referrals appear to be fairly evenly divided between males and females; however, approximately 60% of female status offense referrals tend to be for runaway.

- In three States, whites account for over 50% of status offense referrals to intake.

- In one State where referral source data were available, 84% of referrals to intake were by law enforcement. Seven percent were by parents or relatives, and 3% were from another juvenile court. In addition, 60% of law enforcement referrals were closed at intake. Only 16% of referrals from all sources were finally petitioned.

Policy Implications in Regard to Intake

Again the data are meager; however, this suggests a major policy implication. More comprehensive data regarding the types of cases, characteristics, and needs of the juvenile, and the subsequent decisions made by intake should be collected and studied. In addition, prescribed procedures need to be developed and monitored in regard to the kinds of decisions made and their basis. Although approximately 50% of the status offense cases referred to intake are eventually closed, little is known regarding whether the underlying problem and needs of the juvenile are being addressed. In addition, since 84% of the referrals to intake are made by the police, the high rate of cases closed by intake may serve to discourage future police referrals. This outcome could result in status offenders being ignored by the police or the upgrading of these behaviors to more serious delinquency arrests.

FIGURE II

CALIFORNIA

STATUS OFFENSE REFERRALS TO INTAKE BY SOURCE OF REFERRALS

1976

FREQUENCY / SOURCE	1976	
	N	%
LAW ENFORCEMENT	27,707	83.5
SCHOOL	650	2.0
PARENTS / RELATIVES	2,168	6.5
PRIVATE AGENCY	0	0.0
WELFARE DEPARTMENT	154	0.5
OTHER COURT	1,124	3.4
PROBATION DEPARTMENT	645	1.9
OTHER/ UNKNOWN	730	2.2
TOTALS	33,178	100.0

SOURCE: TABLE CONSTRUCTED WITH DATA ADAPTED FROM CALIFORNIA BUREAU OF CRIMINAL STATISTICS, SEPTEMBER 1977.

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One of the issues that this possibility raises concerns the role of intake. Should intake be concerned merely with the screening of referred cases, determining which cases should be referred to court, or should intake officers be equally concerned with either referring certain cases to community service agencies or providing services directly to the juvenile? Some programs have focused on the significance of this point in the process, and this will be discussed later in the program chapter. Possibly more attention should be given to the significant role intake services can play in the early identification and referral of cases to capable service agencies. When alternative community resources are greatly limited, the intake worker may find the decision at intake reduced to petitioning the court for action or dismissal of the case resulting in no service or attention to the juvenile's needs. This situation is likely, whether the juvenile is considered a status offender or a delinquent.

Detention of the Status Offender

In 1974, the Federal Juvenile Justice and Delinquency Prevention Act was passed which mandated a gradual phasing out of the use of detention* for status offenders within two years. Since the passage of the Act, the mandate has been extended and modified. Examining detention for status offenders data from the various States indicates that detention is still widely used by the States.

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*The terms "detention" and "juvenile detention facility" have different meanings among the various States and jurisdictions. A national study to develop adequate criteria to define these terms suggests that in many States a juvenile detention facility refers to either a physically restricting or nonsecure facility which can provide custody for the detention, temporary care, or protection of juveniles alleged or adjudicated to have committed criminal-type offenses (including status offenders in some jurisdictions) pending court disposition or until their release by parental request, court process, or an administrative process. Juveniles have been placed there in detention as a result of a court order, a social agency placement, or apprehension and delivery by a law enforcement agency (38, pp. 20-21).

A 1977 study of deinstitutionalization in ten States found that, although the detention and confinement of status offenders appear to be declining in 1976 as compared to 1974, all States where data were available still confine accused or adjudicated status offenders in detention facilities (53, pp. 11-13). A significant number of status offenders would appear to still be detained in 1976.

An earlier national study done in 1965 by the National Council on Crime and Delinquency (NCCD) found that the average daily population of delinquent children in places of detention was more than 13,000. Approximately 409,000 juveniles were admitted to detention--which was about 66% of all juveniles apprehended that year. The average length of stay was 12 days (66, p. 121). Although the NCCD survey did not delineate the offenses of detained juveniles, based upon other studies it can be assumed that a significant portion of the detention population was status offenders. For example, Ferster, et al., found in a survey of juvenile detention centers in ten of the largest cities in the U.S. that percentages of youths held in detention charged with status offenses ranged from 16% to 68% (110, pp. 161-195). In addition, Airessohn and Gonion found that half of the minors admitted to the San Diego Juvenile Hall during 1970 were arrested for incorrigibility, running away, or committing other crimes for which no equivalent adult offense exists (107, pp. 28-33). Sarri studied the detention situation in Georgia during 1971-72 and found that out of a sample of 1,086 youths placed in detention for that period, 54% were charged with a status offense or determined to be in need of supervision (20, p. 20).

The Children in Custody report for 1974 provides a limited indication of the use of detention and correctional facilities for status offenders; however, caution must be used in citing this data as an indication of the use of status offender detention. Out of 4,644 status offense cases detained in public detention or correctional facilities in 1974, data regarding their offense were lacking in 43% of the cases, and of the 31,270 delinquents in public detention and correctional facilities, information regarding the offense was lacking in 46% of the cases. Therefore, at best the data provide only a broad sweep of the national situation (92).

The Children in Custody report for 1975 provides a somewhat improved indication of detention practices for status offenses. The difficulty with using these data is in the application of the PINS label. According to the glossary of the report, the definition of PINS (Persons In Need of Supervision) encompasses the categories of juveniles known as CHINS, JINS, as well as those designated as unruly, unmanageable, or incorrigible. In some jurisdictions, a PINS label can be used for juveniles convicted of a felony or misdemeanor. Therefore, all PINS are not status offenders, and all status offenders are not PINS (92, p. 12). With this limitation in mind, the data on PINS detentions can provide a national indication of status offense detentions (see figure 12, p. 89). According to Children in Custody data for 1975, approximately 10% of the 46,980 juveniles in detention in public facilities were PINS cases, and 16% of the 27,290 juveniles in private facilities were PINS.

Detention rates tend to vary from State to State. Data from a study conducted by the National Center for Juvenile Justice, although their reliability is uncertain, indicate that large numbers of juveniles continue to be detained in jails and juvenile detention centers (65) (see figure 13, p. 91). An analysis of these data shows that in 1975, States varied in their detention of juveniles in jails from 0 to 17,000 (Wisconsin) and in their detention in juvenile detention centers from 0 to 172,391 (California). The average yearly population of juveniles detained in jails was 2,572 while the average yearly population of juveniles detained in detention centers was 11,047. The length of stay in detention centers varied from State to State. The number of days for juveniles detained in jails ranged from a low of one day to a high of 17 days with

FIGURE 12

DETENTION STATUS OF JUVENILES HELD IN PUBLIC AND PRIVATE FACILITIES UNITED STATES - 1975

FACILITY TYPE / STATUS	PUBLIC FACILITY		PRIVATE FACILITY	
	N	%	N	%
ADJUDICATED DELINQUENTS	34,107	73	9,809	30
PINS[1]	4,494	10	4,316	16
PENDING COURT DISPOSITION	7,011	15	529[2]	2
AWAITING TRANSFER	392	<1		
VOLUNTARY	516	1	5,879	21
DEPENDENT / NEGLECTED	451	1	4,844	18
OTHER	9[3]	<1	1,913[3]	7
ALL JUVENILES	46,980	100	27,290	100

[1] SEE P.12, CHILDREN IN CUSTODY, FOR DEFINITION (DEFINITION IS NOT SPECIFIC).

[2] DATA COMBINED IN CHILDREN IN CUSTODY REPORT.

[3] REPRESENTS EMOTIONALLY DISTURBED OR MENTALLY RETARDED JUVENILES AWAITING TRANSFER FOR SPECIALIZED TREATMENT.

SOURCE: U.S. DEPARTMENT OF JUSTICE, LEAA, NATIONAL CRIMINAL JUSTICE INFORMATION AND STATISTICS SERVICES; CHILDREN IN CUSTODY: ADVANCE REPORT ON THE JUVENILE DETENTION AND CORRECTIONAL FACILITY CENSUS OF 1975 (WASHINGTON, D.C.: U.S. GOVERNMENT PRINTING OFFICE, OCTOBER 1977), TABLES 3 AND 4, PP. 18-19.

an average of five days. The average number of days detained in juvenile detention centers was 10 days with a range from one day to a high of 22 days (Louisiana). Therefore, fewer juveniles are detained in jails for shorter periods of time than they are in juvenile detention centers.

A study on Juvenile Detention in Wisconsin (1976) indicates that 40% of the juveniles detained are detained for status offenses. Status offenses is the largest offense group for juvenile detainees, more than offenses against persons (6%) and offenses against property (16%). Also, a status offense is the reason given for detaining a significant percentage of both males (32%) and females (61%). Therefore, status offenders are detained more often than delinquents, and female status offenders are more likely to be detained than males. It is significant that about one-third of the status offenders that are apprehended are detained as compared to 10% of criminal apprehensions (105, pp. 65-70), especially since this finding of the Wisconsin study is supported by findings of other research studies and the data obtained from other States (107, pp. 28-33; 110, pp. 161-195; 116, pp. 35-44; 20; 127, pp. 168-179).

The Children and Youth in Crisis Project in 1976 found that 83% of youths charged with incorrigibility in Hennepin County, Minnesota were detained as compared to 77% of those juveniles held for armed robbery, 60% for assaults, and 51% for burglary (47). Data from other States indicate that approximately 40% of juveniles in detention are status offenders (see figure 14, p. 92). In addition, based on data from two States, 85% of status offenders detained are held in what the States refer to as "secure detention" (101, pp. 52 & 54; 88, pp. 46-49).

The Wisconsin researchers toured 30 jails and found that in 20 of the jails specially designated cells or cell blocks were reserved for juveniles (105, pp. 65-70). Although this segregation was probably part of an effort to avoid the harmful effects resulting from interaction between juveniles and adults, the researchers

FIGURE 13

JUVENILES DETAINED IN SECURE DETENTION FACILITIES AND THEIR AVERAGE LENGTH OF STAY, 1975

STATE	FACILITY		AVERAGE LENGTH OF STAY	
	JAIL	JUVENILE DETENTION CENTER	JAIL	JUVENILE DETENTION CENTER
ALABAMA	982	3,138	N/A	14 DAYS
ALASKA	988	452	4.35 DAYS	11.29 DAYS
ARIZONA	0	13,252	—	5 DAYS
ARKANSAS	N/A	N/A	N/A	N/A
CALIFORNIA	N/A	172,391	N/A	12 DAYS (FOR L. A. CENTER) NO STATE DATA
COLORADO	4,931	9,401	N/A	N/A
CONNECTICUT	0	269	—	N/A
DELAWARE	0	1,869	—	6.1 DAYS
FLORIDA	N/A	19,450	N/A	17 DAYS
GEORGIA	1,769	7,806[1]	4.3 DAYS	13.2 DAYS
HAWAII	N/A	1,798	N/A	N/A
IDAHO	N/A	N/A	N/A	N/A
ILLINOIS	4,785	14,994	N/A	9.5 DAYS
INDIANA	N/A	N/A	N/A	N/A
IOWA	3,562	1,200	N/A	20.66 DAYS
KANSAS	3,401	3,361	3.4 DAYS	18.4 DAYS
KENTUCKY	6,214	1,153[2]	3.9 DAYS	N/A
LOUISIANA	N/A	4,069	N/A	21.7 DAYS
MAINE	846	604	1.8 DAYS	9.9 DAYS
MARYLAND	963	5,707	5. DAYS	14 DAYS
MASSACHUSETTS	0	4,000[3]	—	N/A
MICHIGAN	1,656	34,479	12 DAYS	12 DAYS
MISSISSIPPI	1,679	1,209	N/A	N/A
MISSOURI	1,714	9,558	3.34 DAYS	8.25 DAYS
MONTANA	3,434	0	N/A	
NEVADA	N/A	6,817	N/A	6 DAYS
NEBRASKA	N/A	N/A	N/A	N/A
NEW HAMPSHIRE	15[4]	178	N/A	N/A
NEW JERSEY	6	424[5]	—	12.7 DAYS
NEW MEXICO	5,940	4,700	1 - 2 DAYS	1 - 2 DAYS
NEW YORK	7	11,882	N/A	N/A
NORTH CAROLINA	2,706	3,930	9 DAYS	N/A
NORTH DAKOTA	415	71	1.5 DAYS[4]	1.5 DAYS[4]
OHIO	5,984	27,432	3.3 DAYS	12 DAYS
OKLAHOMA	11,000	3,244	N/A	5.4 DAYS[4]
OREGON	945	6,807	N/A	N/A
PENNSYLVANIA	2,943	14,106	N/A	9.8 DAYS
RHODE ISLAND	0	407[7]	N/A	N/A
SOUTH DAKOTA	N/A	N/A	N/A	N/A
TENNESSEE	773[8]	17,921	N/A	N/A
TEXAS	0	7,718[9]	N/A	5.3 DAYS
UTAH	1,100	6,811	1.5 DAYS	3.34 DAYS
VERMONT[10]	—	—	—	—
VIRGINIA	5,623	9,692	17 DAYS	9.72 DAYS
WASHINGTON	53	23,308	2.9 DAYS	4.1 DAYS
WEST VIRGINIA	878	1,631	N/A	6.84 DAYS
WISCONSIN[11]	17,203[10]	6,717	2.0 DAYS	3.5 DAYS
WYOMING	2,074	0[12]	N/A	N/A
TOTAL	94,589	463,956	—	—
MEAN	2,572	11,047	4.8 DAYS	9.83 DAYS

[1] FOR FY 1976.

[2] FOR FY 1974

[3] FOR ADMISSIONS ONLY WITH POSSIBILITY OF MANY DUPLICATIONS.

[4] ESTIMATED

[5] DATA FOR DECEMBER 4, 1975, NOT FOR YEAR.

[6] JUVENILES ARE PROHIBITED BY STATE LAW FROM BEING DETAINED IN JAILS; HOWEVER, THERE IS FREQUENT USE OF DETENTION IN MUNICIPAL JAILS FOR OVERNIGHT PLACEMENT OR FOR AS MUCH AS SEVERAL DAYS

[7] FOR PERIOD JULY 1, 1975 TO JUNE 30, 1976

[8] JUVENILES DETAINED IN JAILS HAVE REGULAR CONTACTS WITH ADULTS

[9] FOR HARRIS COUNTY ONLY.

[10] SECURE JUVENILE DETENTION CENTER DOES NOT EXIST.

[11] FIGURE INCLUDES 6,399 JUVENILES IN MUNICIPAL AND VILLAGE LOCK-UPS

[12] BASED UPON 1974 DATA.

N/A - NOT AVAILABLE

SOURCE: DATA ADAPTED FROM RESPONDENTS PANEL, STATE PROFILE QUESTIONNAIRE, A REPORT OF THE NATIONAL CENTER FOR JUVENILE JUSTICE, RESEARCH DIVISION, APRIL 1977.

FIGURE 14

DETAINED JUVENILES BY OFFENSE

STATE / OFFENSE	TEXAS[1] (1976)		TENNESSEE[2] (1975)		COLORADO[3] (1975)		VIRGINIA[4] (1976)		AVERAGE
	N	%	N	%	N	%	N	%	%
STATUS	10,307	36	5,052	27	4,975	45	4,964	46	39
DELINQUENT	18,087	64	13,636	73	5,995	55	5,939	54	62
TOTAL	23,394	100	18,688	100	10,970	100	10,903	100	

[1] DATA ADAPTED FROM TABLE 10B (P. 48), TEXAS JUDICIAL COUNCIL, TEXAS JUVENILE PROBATION REPORT, 1976.

[2] DATA ADAPTED FROM TENNESSEE, 1978 COMPREHENSIVE PLAN, PP. B-549 AND 646.

[3] DATA ADAPTED FROM COLORADO DIVISION OF CRIMINAL JUSTICE, JUVENILE JUSTICE IN COLORADO 1975, PP. 68 AND 70.

[4] DATA ADAPTED FROM VIRGINIA, FY 1978 COMPREHENSIVE CRIMINAL JUSTICE PLAN, PP. 52-54.

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point out a significant side effect was that "the juvenile sections were in worse condition than adult cells even though the design was identical." In two of the jails, when they were overcrowded with adults, juveniles were put into maximum security or holding cells to prevent commingling. The researchers conclude that this situation is an example of how the juvenile prisoner may be subjected to harsher holding conditions than adults due to the overall physical design and original purpose of a jail. Another possibility may be that juveniles are more likely to destroy facilities than adults, therefore partially explaining the finding that they were held under worse conditions.

Therefore, in an effort to protect juveniles detained in jails from commingling with adults, often juveniles are subjected to harsher treatment, worse conditions, and more secure detention than their adult counterparts. The impact of this factor upon a requirement to separate status offenders from delinquents is unknown; however, it may result in status offenders being exposed to harsher conditions in an effort to protect them from exposure to more serious juvenile offenders.

Research has indicated that the population size and the location of the detention facility in the community influence the rates of detained status offenders. McNeece found that police who were located close to detention units tended to bring in many more youths than did police further away in the same county (119, p. 167). This suggests that the convenience of transporting arrested juveniles to a detention facility has an important influence upon the police decision to detain. A national study found that when the total population size and density of the community increased, there was a greater likelihood that status offenders were detained. The vast majority of youths detained in the U.S. are held in large units (exceeding 75 beds) almost exclusively in large urban communities (12, p. 167). Therefore, demographic factors (e.g., community size, density, and detention facility location) influence the rates of status offender detention. This finding is especially significant considering the detention conditions often faced by detained juveniles. It also suggests that detention may be used as punishment in some cases. Sumner and Logan point to the frequent use of preventive detention and weekend holding of status offenders. Many of these detained youths are eventually released without petitions being filed (127, pp. 168-179; 62).

Information from the States indicates that the majority of status offenders are detained prior to a hearing in juvenile court. In six States, a third or more are detained (88, p. 48; 101, pp. 52 and 54). In Virginia, for example, 85% of the status offenders as compared to 62% of the delinquents were detained prior to trial. Approximately 8% of the status offenders were detained after trial.

Most of the detention data available group all status offenders together without indicating the particular status offense responsible for the detention. In two States where the type of status offense is provided, over 60% of the status offenders are runaways (105, p. 72; 49, p. 17). This may also help explain the finding that approximately 40% of the status offenders are detained less than 24 hours, and 46% are detained at least one day but not more than three, in the few States where such data are available. This situation may result from runaways being detained to prevent further running away, thus being held until they can be released to their parents. Although the average length of stay of status offenders is relatively brief, data from a number of States indicate that the length of stay of status offenders can be as long as 210 days.*

In two States (where age data were available) the majority of status offenders in detention were between 15-17 years old. In addition, from the data it appeared that females were more likely to be detained for a status offense than a delinquency, and the most likely female status offense is runaway (101; 105, pp. 65, 69, and 73). Other studies have found the median age to be between

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*See, for example, data for New Hampshire (72, figure 14, p. 147).

14 and 14.7 years, with only 3% of the youths under nine years old (12; 78).

Detained status offender race information was rarely available. In two States where it was provided, white detained status offenders outnumber all other groups (105, pp. 67-68). Although white juveniles outnumber black, in Wisconsin black juveniles were held the longest in detention and only 28% were returned to the community upon release from detention, as compared to 52% of the white juveniles. In addition, 29% of the black juvenile status offenders were sent to either correctional or treatment-based institutions upon release (105, p. 87). While this finding does not support a general finding that race impacts the length of stay and subsequent institutionalization of the juvenile, it certainly provides enough information to lead to the suspicion that black status offenders may be more likely to be arrested and treated more severely for status offenses in some jurisdictions than white juveniles.

The influence of race on severity of treatment was found in a recent study by Thornberry in Philadelphia. The percentage of less serious black offenders referred to court intake and therefore at risk for detention exceeded that of whites when the number of prior offenses was controlled (129, pp. 90-92). Although this finding does not apply to the more serious offenses, it does suggest that the less serious black juvenile offender is more likely to be arrested, referred to intake, and be detained. It also does not necessarily indicate the presence of racial discrimination, for it may be due to other factors such as a lack of police, court and family resources to present adequate alternatives for the less serious black offender. It does indicate, though, that for whatever reason, black youths who commit status type offenses are more likely than white youths to be processed by the court even when their records of law violation are similar.

To summarize, the following are the major findings in regard to the detention of status offenders.

Major Findings Regarding the Detention of Status Offenders

- 40% of juveniles in detention are status offenders (five States).
- 40% of status offenders referred to juvenile court intake are detained (three States).
- Status offenders as a group appear more likely to be detained than delinquents.
- Based on data from three States, 85% of status offenders detained are detained in "secure" detention.
- As much as 85% of the status offenders detained are detained prior to adjudication (two States); one-third are detained in six States.
- 40% of status offenders detained are detained less than 24 hours (two States), 46% are detained at least one day but not more than three days (four States); however, one State reported the average length of stay of status offenders to be 17 days.
- Over 95% of status offenders detained are 15-17 years old (two States).
- 60% of the status offenders detained are runaways who are ultimately released to their parents (two States).
- The majority of status offenders detained are male in three States; however, in one State this pattern was reversed.
- Over 65% of females detained are detained for status offenses (four States).

Policy Implications Regarding the Detention of Status Offenders

Although the information available regarding the extent and dimensions of status offender detention is generally inadequate, a few policy implications can be tentatively drawn. If the provisions of the 1974 and 1977 Juvenile Justice and Delinquency Prevention Act regarding the gradual reduction and eventual termination of the use of detention for status offenders is to have the desired impact, a uniform monitoring system will need to be developed and implemented by the States. The fact that so little is known regarding the use of detention leaves one to believe that its usage will continue in one form or another.

Available information tends to indicate that status offenders are probably detained more as a preventive or protective measure than as a risk to the community. Since 60% of the status offenders detained are runaways who are held for relatively short periods of time prior to adjudication, it appears that the availability of alternative facilities with some degree of control but with less adverse and potentially harmful conditions may in fact reduce the need for detention in jails and juvenile halls for status offenders. Therefore, the use of jails and county detention facilities may result from a lack of any other facility to provide for the safety and care of status offenders rather than a decision to punish or reduce the risk to the community.

This possibility is supported by a major finding of the Arthur D. Little study which found that States have made less progress in removing status offenders from detention than correctional institutions (53, pp. vi-x). Therefore, one of the most significant service needs identified by the study was for States to develop alternatives to detention, especially to be used as an alternative to preadjudicative detention.

With the provision of alternative facilities designed to meet the needs of the status offender readily available to the police and intake staffs, the use of detention in jails and county detention centers may further decline. The physical design, program activities, and management of these special facilities probably should be given more attention in the future.

Adjudication and Disposition of Status Offense Cases

The principal source of national data on juvenile court activities is juvenile court statistics produced by the National Center for Juvenile Justice. According to data for 1974, over one million juvenile delinquency cases, excluding traffic offenses, were handled by courts having juvenile jurisdiction in the United States. This was a 9% increase over 1973. In addition, there were 151,300 dependency and neglect cases disposed by the juvenile courts in 1974. Unfortunately, the data do not provide any information regarding the number of status offenses handled by the juvenile courts.

A better indication of the extent of court handling of status offenders can be obtained from a national study of juveniles, the courts, and the law (12). According to this study, on the average over 60% of all cases referred to courts are delinquency petitions, 20% are CHINS (Children In Need of Supervision), 10% are dependency and neglect, and 19% are for traffic violations (12, p. 62). This pattern is fairly true for most courts with the exception of the very large courts which are less likely to receive CHINS petitions. This study also found that the rate of status offenders referred to court was influenced by the youth population under the courts' jurisdiction. On the average, juvenile courts process approximately 4% of the youth population under their jurisdiction. Approximately 2.4% of all the youth population will be charged with delinquency and about 0.8% as CHINS (12, p. 63). This finding would suggest that in larger communities, youths have a higher risk of being processed through the juvenile court. It is significant that it was found that CHINS referrals were highest in intermediate jurisdictions (size 100,000-199,999). Therefore, these differences in court processing of status offenders suggest that larger communities, with their large volume of juvenile cases, focus upon the more serious problems of the juvenile. On the other hand, intermediate size jurisdictions may be too large to handle these cases informally but not too burdened by the serious cases to handle them formally, whereas smaller communities are not overburdened with large caseloads and are capable of handling status offenders informally.

A review of data obtained from the States can add some further information on court activity. Of six States reporting, the mean percentage of status petitions to total petitions filed in the juvenile court is approximately 25%. This ranges from a low of 11% to a high of 32% (75; 87, p. B-549; 88, p. 54; 41; 77, pp. 82-83; 50, pp. 13 and 19) (see figure 15, p. 100). A rough estimate of the number of status offenses disposed by the courts nationally can be made by using the above 25% figure on the total delinquency and dependency cases handled by the court. Therefore, it can be estimated that approximately 350,000 status offense cases were disposed of by the juvenile courts in 1974.

It appears that approximately one-third of the status offense petitions to juvenile court are disposed of by a dismissal. If the court determines that the status offender is in need of some service, the most likely disposition is probation with 20-40% of the cases in representative jurisdictions reflecting probation as the disposition (75, p. 78; 88, p. 54; 41; 86; 87, p. B-549; 50, p. 119; 82, pp. 95-96).

If the offense of the status offender is considered, it appears that slightly less than half of all status offense cases heard by the court are for runaway behavior (86, pp. 82-83; 61, p. 13; 82). Since many of the runaway cases eventually result in the juvenile being released to his/her parents without any further action, this partly explains the high rate of dismissals for status offense cases. In addition, data from California show that over 50% of the truancy, runaway and incorrigible cases result in probation. Therefore, it appears that most often the court either dismisses the case or provides probation. In addition, according to California data, even when the status offender returns to the court for a new offense, the court generally maintains the prior disposition.

Although juveniles charged with status offenses are entitled to legal representation in the juvenile court, California data indicate that 40% of the status offenders have no legal counsel. In 40% of the cases, a public defender represented the status

FIGURE 15

STATUS OFFENDER AND DELINQUENT PETITIONS TO JUVENILE COURT FOR SELECTED STATES

STATE / OFFENSE	NORTH CAROLINA[1] (1975)		TEXAS[2] (1975)		TENNESSEE[3] (1975)		UTAH[4] (1975)		AVERAGE
	N	%	N	%	N	%	N	%	%
STATUS	5,275	26	1,187	11	13,288	30	6,665	32	25
DELINQUENT	15,152	74	9,411	89	31,564	70	14,339	68	72
TOTAL	20,427	100	10,598	100	44,852	100	21,004	100	

[1] DATA ADAPTED FROM NORTH CAROLINA JUDICIAL DEPARTMENT, ANNUAL REPORT 1975.

[2] DATA TAKEN FROM TEXAS JUDICIAL COUNCIL, JUVENILE COURT ACTIVITY, JUVENILE PROBATION REPORT, 1976.

[3] DATA TAKEN FROM TENNESSEE, 1978 COMPREHENSIVE PLAN, P. B-549

[4] DATA TAKEN FROM JOHN HOWARD ASSOCIATION REPORT, JUNE 1976, PP. 13 AND 19.

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offender, while in 2% of the cases a private attorney, and in 5% a court-appointed counsel represented the juvenile (data unavailable for 13% of the cases). It is also interesting to note that in 85% of the cases, a probation officer presented the charges. Rarely was a district attorney involved in the case (3% of the cases).

Data on the relationship between the court disposition and the sex or race of the status offender are extremely limited. Using data from California for 1976, it appears that there is only a 1% difference between the percentage of male and female status offense cases either dismissed or placed on probation by the court. Generally, 33% of the status offense cases are dismissed and 55% are placed on formal probation, 3% of the cases are transferred to adult court, and approximately 9% placed on non-ward informal probation.

This distribution is fairly consistent for all racial groups except there appears to be a slightly greater use of formal probation for Mexican-American and Asian juveniles.

The following summarizes the major findings regarding the adjudication and disposition of status offenders.

Major Findings Regarding the Adjudication and Disposition of Status Offenders

- Approximately 20% of all petitions to the juvenile court are for status offenses (three States).

- Based on data from six States, approximately one-third of the status offense petitions to juvenile court result in a dismissal.

- Generally, 45% of status offense petitions to juvenile court are for runaways, and the most frequent disposition is release to parents (three States).

- Approximately one-quarter of status offense petitions are for ungovernable behavior (three States).

- Based on data from California, it appears that race and sex have no significant impact on the disposition of status offense cases by the court.

- In California, over 50% of the truancy, runaway and incorrigible cases result in the juvenile being placed on probation.

- In California, the majority of status offenders returning to the court for subsequent status offenses have their prior disposition maintained.

- In California, 40% of status offenders before the court have no legal counsel, while 40% have a public defender. In 85% of status offense cases before the court, a probation officer prosecutes the cases.

Policy Implications Regarding the Adjudication and Disposition of Status Offenders

Although many juveniles arrested as status offenders and referred to intake are not petitioned to juvenile court, status offense cases account for a substantial part of the court's workload. The reasons certain status offense cases are petitioned for formal court action are not available; however, almost half of these cases are runaways. This may be an indication of the difficulty the juvenile justice system has in dealing with the runaway problem. If the release of a runaway by the police or intake again results in the juvenile running away, it may leave little choice but referral to court. Unfortunately, the court has limited alternatives in most cases other than probation or some type of juvenile residential facility; very often a private facility is reimbursed by the county or the State on a case-by-case basis. Often such a facility is far from the community and would create additional problems for the social adjustment or resolution of the underlying problem. Recognition of the limitations of residential facilities for the treatment of status offenders probably leads many judges to turn toward probation supervision as a partial solution. Based upon the knowledge that probation caseloads are often large and that probation supervision at best is limited as to intensity, duration and the frequency of contacts, it is questionable how successful it can be in effecting a solution to the problems of status offenders, especially when the juvenile continues to run away.

It is also important to note that a study of over 2,000 juveniles appearing before the Portsmouth and Virginia Beach, Virginia juvenile courts from January 1, 1970 to December 31, 1974 indicated that "status offenders constitute a major problem for the juvenile court for no other reason than they represent a substantial proportion of the total load of cases which must be processed and are much more likely to return than other types of first offenders" (127, p. 446). In addition, the research found that "a substantial number of status offenders subsequently become involved in misconduct that is generally viewed as more serious (felonies and misdemeanors) ...[and that a] significant number of those appearing before the court on status offenses have previously been charged with more serious types of delinquency" (127, p. 448).

These findings may indicate that the needs of many status offenders are not presently being addressed by the juvenile court and that a substantial number of status offenders are likely either to have previously been before the court as a delinquent or be returned to the court later charged with a delinquency. Although it is difficult to draw general conclusions from this one study, it does appear to indicate that distinctions between status offenders and delinquents at the adjudication and disposition stage of the process are often impossible, and furthermore, that the experience of having been adjudicated and given a disposition does not reduce the likelihood that the status offender will reappear either as a status offender or delinquent. Unfortunately, this study is also limited to adjudicated juveniles; it does not describe status offenders and delinquents at other stages of the process. Since most status offenders are generally terminated from further processing before they ever get to the juvenile court, these adjudicated and recidivating status offenders may be before the court because of their similarity in some respects to delinquents and their difficult behavior.

A study conducted by Berger using a modified version of a self-report delinquent inventory instrument (developed by Short and Nye) of 3,185 households in Illinois provides additional information regarding status offender characteristics (34). Berger found, based upon the data, that it was important to recognize that juveniles entering adolescence tended to have little in common with those departing adolescence and entering adulthood. In other words, during the period of adolescence juveniles gradually change their attitudes, behaviors, and aspirations to resemble adults, and thus gradually take on adult self-images. This conception of adolescence is important for an understanding of status offense behavior since older adolescents who commit status offenses (e.g., running away, curfew violation, ungovernable) may be taking on adult self-images while still being treated (in terms of independence) as juveniles. Berger also found that "the transition to adulthood is accompanied by an increase in the number of status violations an adolescent engages in" (34, p. 40). Therefore, differences in attitudes, behaviors, aspirations, and maturity levels would suggest that status offenders are a heterogeneous group and in some cases it is inappropriate to treat them as juveniles.

It is also significant that the self-report data indicated that 95% of adolescents engage in at least one status violation, and 12% of the sample reported an extensive repertoire of such violations (34, p. 51). The adolescent's perception of his peer group (whether it is perceived as troublemaking) and the school (whether it is perceived as oppressive rather than task-oriented) directly correlated with the amount of status violation behavior of the adolescent. In addition, the more integrative the adolescent's family environment, the less likely the adolescent was to become engaged in status offense behavior. When a history of status violations was added to the above factors, data indicate that it was more likely that the juvenile would become involved in serious forms of delinquent behavior; however, the researcher cautioned that this relationship was not sufficient to support the contention that status offenses necessarily lead to delinquency. Although a history of status offenses may serve as a strong indicator of delinquency (e.g., as the number of status offenses increases, the more likely the juvenile will become involved in delinquency), it is the frequency of status offenses that correlates with future serious forms of delinquency. Therefore, the "first time" status offender or periodic status offender may or may not commit a serious form of delinquency in the future.

These findings point out the significant need for communities to develop community programs as dispositional alternatives to the juvenile court. These programs should provide specialized care and supervision for the hard-to-reach or resistant status offender, especially for the chronic runaway who must be removed from the family environment for a period of time until the problems creating the need for running away are resolved. They should also be designed with a sensitivity to the needs of specific status offender problems rather than directed toward the general group of status offenders without recognition of the specific underlying problem and its dimensions. Therefore, a wide range of community programs needs to be developed, some offering residential programs and others specialized counseling or services on an outpatient basis. The existence of these programs would provide more alternatives to the juvenile court than probation, institutionalization, or outright dismissal, and may in the long run reduce the number of recidivist status offenders as well as the likelihood of escalating status offenses to serious forms of delinquency.

Programs and the Institutionalization of Status Offenders

A report by Barton, Isenstadt, and Selo (33, pp. 44-63), using data from the National Assessment of Juvenile Corrections, presented the most comprehensive information on status offenders in institutions, group homes, and day programs. Many of their findings go beyond the scope of this report; however, the following major findings provide a general profile of status offenders in programs:

- The average age at entry into the programs is 15 years.
- Proportionally more males (55%) are in programs than females.
- 54% of status offenders are white; however, black juveniles account for 31% and other non-whites account for 15%.
- Status offenders and criminal offenders are equally likely to come from families with unemployed or working class parents.
- On the average, all juveniles are behind in school relative to their age, regardless of offense. Boys are further behind than girls, and whites are further behind than blacks.
- The majority of status offenders in institutions and day programs are males (52%), while the majority of status offenders in group homes are females (56%).
- 48% of status offenders in group homes come from families in which the parents are white-collar or professional, whereas the majority (57%) of status offenders in institutions and day programs are from working class families.
- More than half of the juveniles with runaway and family problems are male; however, females account for 77% of the juveniles with school-related status offenses. Whites have predominantly runaway (64%) and family problems (58%). The racial distribution for school problems is fairly evenly distributed (42% white, 46% black).

The Barton study mentions that it would be inappropriate to make strong inferences from their sample to the characteristics of status offense and correctional programs nationally. Their major findings, taken in conjunction with the findings of this study and those of other studies, however, raise some questions and doubts about some common assumptions and theories concerning status offenders. The following conclusions were made by the Barton study in regard to status offenders:

- Status offenders differ from other juveniles processed by correctional programs. Status offenders appear to differ primarily in terms of their behavior being victimless and more self-destructive.
- Status offenders are rarely involved in delinquent behavior; however, they are more frequently processed at the entry level of the system. In addition, once they penetrate the entry levels they are more likely than other youths to be further processed. This may be suggestive of the lack of alternatives outside of the juvenile justice system available to deal with nondelinquent juvenile behavior.
- There is a tendency for correctional agencies to "overprocess" girls and blacks as a result of differences in community tolerance for certain types of behavior, alternatives available, and the seriousness attached to certain kinds of behavior.

The report Time Out, also by the National Assessment of Juvenile Corrections, suggests some reasons why female status offenders are more severely dealt with for relatively minor offenses (11). The authors found female status offenders to be more involved in family-related problems, whereas males were more involved with school problems. Although this may appear to conflict with Barton's findings, there may be a difference between the actual status offense the juvenile is charged with and the underlying problem. Females may have more family-related problems, but may manifest these through school-related offenses and thus be charged with the latter. If so, this may suggest some reasons for the difference in disposition of male and female status offenders (11, p. 39). If the females are perceived as involved more with family-related problems (e.g., ungovernable, incorrigible, runaway) which may require placement outside the home more than those which are school-related (e.g., truancy), they would be more likely to be placed in institutions or group homes. Day treatment programs are essentially alternative schools, and therefore it would seem more natural for them to serve status offenders of the school type. Since, according to the study, males are more likely to be involved in school-related status offenses, it may result in overrepresentation of male status offenders in day treatment programs.

The Children in Custody (91) data do not distinguish statistically between juvenile detention and correctional facilities. Therefore, it cannot be employed to indicate the extent of post-adjudicatory institutionalization; however, the data from the States can provide some information in regard to status offenders in institutions. Based on data supplied from four States, it appears that 25% of juveniles committed to correctional facilities are status offenders (60; 46; 87, p. B-712).* Almost 75% of the committed status offenders are males (60, p. 19; 87, p. B-712).** In Pennsylvania in 1975, 494 status offenders were committed to institutions: 50% were sent to public institutions for delinquents, 37% to private agencies, and 12% to private institutions for delinquents (80, p. B-140).

Although status offenders are supposed to be placed in specially designated shelter care facilities, data on the use of shelter care are generally unavailable. In New Jersey, a survey of admissions to shelter care facilities for six major counties over four selected months in 1976 provides some indication of the characteristics of shelter care populations. The survey found that 60% of the juveniles were females, 59% were black, and 85% were between 13-17 years old (73, p. a-218). This appears to support Barton's finding that females are more likely to be committed to shelter care or group homes than male status offenders; however, the large number of black status offenders appears to be greatly influenced by the over-representation of major city referrals to the shelter care facilities.

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*Also, data received from an unpublished study by Utah Law Enforcement Planning Agency and Council of State Governments.

**Also, printout data obtained from California Bureau of Criminal Statistics, P.O. Box 13427, Sacramento, California 95813, upon special request.

A possible reason for the limited data available for shelter care facilities is that States may be labeling these facilities differently, and therefore collecting data under a diversity of labels. A comprehensive definition and criteria for a shelter care facility was developed by the Council of State Governments. Since these criteria are recent, it will probably take some time before they are applied (38, p. 38).

Considering that 20-40% of status offense dispositions are referral to probation, it would be useful to know the particular status offense of these cases given a probation disposition. Data from New Hampshire indicate that in 1973, 30% of status offense court referrals to probation were incorrigibles, 22% were truants, and 4.6% were runaways (72, table 30, p. 62). According to California data for 1976, 56% of status offenders placed on formal probation were for incorrigible behavior, 33% were for runaway, and 8% were for truancy. Also, 53% of those given information probation (non-ward) were incorrigible. In addition, incorrigible behavior accounted for 53% of the dispositions of the juvenile court for all status offenses (see figure 16, p. 110). Since incorrigible status offenders account for 56% of formal probation dispositions and 53% of informal probation, while accounting for 37% of the total status offenses referred to intake, it suggests that incorrigible status offenders are more likely to be handled formally than other status offenders (see figure 17, p. 111). Although statistical data are not available, reference is made in the literature to the issue that incorrigible status offenders are more likely to be referred to the court by parents and subsequently handled more formally as a result of circumstances related to parental intolerance of the juvenile's misbehavior and the inadequacy of the parents in dealing with the problem (121, pp. 1120-1121).

FIGURE 16

CALIFORNIA

COURT DISPOSITION FOR 601 OFFENSE (STATUS)

1976

DISPOSITION / BEHAVIOR	TRANSFERRED/ADULT COURT REMAND		DISMISSED		NON-WARD PROBATION		FORMAL PROBATION		TOTALS	
	N	%	N	%	N	%	N	%	N	%
RUNAWAY-TRANSIENT	100	52	770	38	180	34	1,088	33	2,138	35
RUNAWAY - PLACEMENT	1	1	34	2	6	1	32	1	73	1
TRUANCY	3	2	86	4	52	10	262	8	403	7
CURFEW	7	4	50	2	10	2	57	2	124	2
FAIL TO OBEY COURT ORDER	2	1	42	2	2	1	38	1	84	1
INCORRIGIBLE	78	41	1,023	51	279	53	1,856	56	3,236	53
DANGER OF LEADING IMMORAL LIFE	0	0	5	1	0	0	0	0	5	1
OTHER DELINQUENT TENDENCIES	0	0	2	1	0	0	0	0	2	1
TOTALS	191	100	2,012	100	529	100	3,333	100	6,065	100

SOURCE: TABLE CONSTRUCTED WITH DATA ADAPTED FROM CALIFORNIA BUREAU OF CRIMINAL STATISTICS, SEPTEMBER 28, 1977.

FIGURE 17

CALIFORNIA
REFERRALS TO INTAKE BY OFFENSE, AND AS PERCENTAGE OF TOTAL STATUS OFFENSE REFERRALS

FREQUENCY / OFFENSE	1976	
	N	%
RUNAWAY – TRANSIENT	14,709	44.3
RUNAWAY – PLACEMENT *	251	0.8
TRUANCY	893	2.7
CURFEW	4,846	14.6
FAIL TO OBEY COURT ORDER	206	0.6
INCORRIGIBLE	12,226	36.8
DANGER OF LEADING IMMORAL LIFE	35	0.1
OTHER DELINQUENT TENDENCIES	12	<0.1
TOTAL	33,178	99.9

SOURCE: TABLE CONSTRUCTED WITH DATA ADAPTED FROM CALIFORNIA BUREAU OF CRIMINAL STATISTICS, SEPTEMBER 26 – 27, 1977.

* REFERS TO A RUNAWAY FROM A COURT PLACEMENT.

Programs and Institutionalization--Findings

- In four States, approximately 25% of juveniles committed to correctional facilities were status offenders.
- In one State, the shelter care facility population was 60% female, 60% black, and 85% between the ages of 13-17 .
- In one State, 20% of juveniles placed on probation were for status offenses; of these, 53% were on probation for incorrigible behavior, and 38% for truancy.
- Data from a west coast State indicated that in 1975, 75% of status offenders were either placed in their own homes or were not placed at all.
- In 1974, Children in Custody data indicated that 18% of delinquents held in public juvenile detention and correctional facilities were status offenses.
- In 1974 and 1975, Children in Custody data indicated that 10% of the juveniles in public detention and correction facilities were PINS cases.
- In private detention and correctional facilities, PINS cases were 16% according to 1974 and 1975 Children in Custody data.

Policy Implications

The data on status offenders in programs and institutions, although not conclusive, do appear to suggest that status offenders in programs and institutions may differ in some respects from their delinquent counterparts. They are less often involved in delinquent behavior, but rather their behavior tends to be essentially victimless and self-destructive. Their penetration into the system appears to be further than other youths as a result of lack of alternatives rather than the potential harm to society. In addition, the over-processing of females and blacks may be a result of community intolerance for their behavior, lack of alternatives available, and the seriousness attached to certain kinds of behavior. A female runaway of fifteen who continually runs away from home may provide few alternatives to the court and result in limited tolerance for such behavior. Male runaways, on the other hand, are perhaps less likely to be brought to court and institutionalized due to greater community tolerance.

The prevalence of incorrigible behavior of status offenders penetrating this stage of the process may suggest the inability of the system to deal with the family in resolving the underlying problems, therefore justifying the need for formal court handling. Considering the severity of handling of incorrigibility, as well as female and black status offenders, it appears that involvement earlier in the process by specially trained treatment staffs may reduce the need for formal processing. Therefore, the major policy implication of the data is that more alternatives need to be developed to deal with the difficult status offense cases such as incorrigibles, runaways, and general family problems, and these alternatives must find ways to directly involve the parents in addition to the juvenile in working out a solution. Community programs which offer family crisis intervention or other forms of family counseling might provide necessary and useful alternatives. Examples of this approach will be discussed in the following chapter.

CONCLUSION

One of the major findings of this survey of the juvenile status offender is that there is a lack of reliable and adequate information. What is available is more a byproduct of routine data collection by the Federal government (UCR, Children in Custody, and National Juvenile Court Statistics*) and the States and local jurisdictions than carefully planned and developed data-gathering directed more specifically at the status offender. Much of the data developed for this analysis were abstracted from the tables provided from these sources. If continual progress is to be made in this area, careful thought and planning will have to be given to identifying the types of uniform information required and the most efficient and effective manner of gathering it.

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*National Center for Juvenile Justice, Pittsburgh, Pennsylvania.

As discussed earlier, the _Uniform Crime Reports_, _Children in Custody_ reports, and _National Juvenile Court Statistics_ reports are inadequate in providing the types of information required to know the full extent and dimensions of the juvenile status offender problem. It would be useful as a preliminary step in determining the types of data elements that would be required on a national level if one local jurisdiction were studied from an information systems perspective. The processing of status offenders at each step in the process should be examined closely, especially regarding how decisions are reached in relation to the characteristics and needs of the juvenile and his or her family. Additional research should be conducted on the needs of the status offender and approaches toward meeting these needs. From the literature and statistics reviewed, it does not appear warranted to assume that all status offenses have the same etiology, involve the same types of juveniles, or require the same remedies. In spite of this diversity, many States group all status offenses together without any consideration of their possible differences.

Any effort at data collection, either on a State or national level, will need to develop and utilize a standard system of terminology for status offense behavior, subsequent handling procedures, and treatment modalities. Currently, States differ as to their application of the label "status offense" and its meaning as well as the use of terms such as shelter, detention, and correctional facility. Some effort has been made in this area by the Council of State Governments (38); however, many States have not had a chance to modify their terminology or statutes.

Although the data on status offender processing are shallow and many questions regarding the decisions and outcomes of system processing remain either unanswered or inadequately analyzed, a few major points emerge from analysis of the data during this assessment.

Status offenders appear to be juveniles attempting to resolve their problems with their families, schools, or society by one or more routes of escape. Essentially, their behavior--running away from home or school, possessing and consuming alcohol, loitering, or staying out after curfew hours--appears to be primarily self-destructive. Their efforts to resolve their problems often create further problems for them. Running away from home can place a juvenile in a potentially dangerous position without the protection of family or friends (31).

Unfortunately, often there are few alternatives available to the police officer confronting a juvenile runaway, loiterer, or curfew violator. If the juvenile resides within close vicinity of the police contact, he can be delivered home to his parents. In many cases this is not easily accomplished, either as a result of the incapacity of the parents, location of the residence, or the frequency of the behavior. Given no other alternative, the police officer has no choice but to deliver the juvenile to a juvenile detention center, although in some jurisdictions a special shelter care facility may be available for receiving status offenders. In the majority of cases, status offenders transported to a holding facility will be released to their parents within 24 hours. Of the status offenders eventually seen by an intake officer, the majority will be released without further action. Even of those given a court hearing, half will be released without any further official action.

It is apparent that whatever handling the status offender receives by the juvenile justice system, in many cases it will have a minimal effect upon the underlying problem of the juvenile due to its limited duration, intensity, and inclusion of the family.

Some jurisdictions have attempted to address the complexity of the behavior by directing their efforts toward the family (families in need of supervision) and the needs of the juvenile rather than exclusively focusing on the behavior of the juvenile. Surprisingly, little is known of the characteristics, needs, or family situations of status offenders. What data are available are directed at the system's activities rather than the needs of the juvenile or his family. Considering what is known about status offenders, it appears that many assumptions are based on superficial information rather than careful study. When the needs of status offenders become better understood, the official juvenile justice system will probably not be able to meet many of these needs without integrated community effort and coordination. The juvenile justice system will need to draw upon community agencies which can develop the capability and resources to meet the special needs of status offenders. Without this resource, the juvenile justice system will be forced to continue processing status offenders in a temporary "holding" or superficial manner.

The decriminalization or dejudicialization of the behaviors labeled as status offenses will not in reality do away with the problems of status offenders. While the potential harm created by the processing of status offenders by the juvenile justice system may be reduced as a result of this approach, the need for an impetus for community agencies to respond by developing alternatives, as well as for some official authority to ensure that these services are delivered, will remain. This requirement may be best fulfilled by a special unit of the juvenile court which serves as a juvenile advocate and coordinator of community services by monitoring the delivery of services, relying upon judicial authority as a last resort. Therefore, the juvenile court may better serve the interests of the community and the juvenile status offender by redefining its role so as to function as a monitor for juvenile services, overseeing the delivery of these services to juvenile status offenders and their families rather than being responsible for delivering them. Hopefully, as community agencies take up the responsibility and develop the capability of delivering these services to status offenders, the juvenile court could gradually reduce its direct involvement; however, it would always remain available to the community, the juvenile, and the family as a final arbitrator or decision-maker in serious or complex cases.

The sharing of responsibility between the official juvenile justice system and the community for the handling of the status offender could reduce the amount of time and effort currently involved in formally processing status offenders. Considering the volume of juveniles referred to as status offenders, PINS, or CHINS processed by the police, intake services, and the courts, the development of alternatives may permit the official system to concentrate on the more serious juvenile offender.

Finally, based upon a review of the literature, statistics, and previous studies on the status offender, it appears that the data cannot clearly distinguish between status offenders and delinquents on the basis of behavior, personal characteristics, and family environment. This is not to suggest that status offenders are similar to delinquents, but that the data are not at this time adequate enough to sufficiently answer this most significant question. Although, statistically, status offenders may differ from delinquent juveniles at specific points in the process, overall the data cannot support the contention that status offenders are a distinct group in relation to delinquents or nonoffending juveniles. This issue will need to be addressed by future research efforts.

On the other hand, status offender is a legal term applied to juveniles exhibiting a category of behaviors referred to as noncriminal. In order to reduce the occurrence of these behaviors and improve the social adjustment of these juveniles, the juvenile justice system will also need to redefine its role and function in relation to status offenders from a legal processing orientation to one which supports and encourages the delivery of community services to all juveniles with various needs without the requirement of a legal or other type of label. This view allows for the examination of the issue of status offenders from a problem-solving perspective (42, p. 4). A problem-solving perspective encourages the search for strategies set within an ecological context and seeks solutions which flow from these same contexts. Therefore, if status offenders exhibit a variety of needs which no program appears to adequately serve, expanding the range of treatment alternatives by developing community programs designed to meet these specific needs would provide an alternative to institutionalization. In the next chapter, selected programs designed to meet the needs of status offenders will be examined.

CHAPTER V

STATUS OFFENDER AND JUVENILE JUSTICE SYSTEM PROGRAMS

INTRODUCTION

The goal of this chapter is to provide a summary of national trends in the establishment and maintenance of juvenile justice system programs for status offenders and suggest areas where further investigation is needed. In order to accomplish this goal, some system programs will be described and assessed. Available data do not permit an evaluation of their effectiveness. However, an assessment is more comprehensive, but less conclusive, than an evaluation might be expected to be. The sacrifice of conclusiveness for comprehensiveness is called for at this point. Thus, the present goal is not to measure the effectiveness of a program in terms of a selected index of successful performance, but to examine critically the directions that system status offender programs are generally taking.

BACKGROUND

A framework will be used which is sensitive to the systematic and structural relationships of the juvenile justice system. This framework will consider the levels of government at which program decisions are made, conflicts encountered, and accommodations reached. Five levels of decision-making will be discussed: the Congress, the Office of Juvenile Justice and Delinquency Prevention, the States, the jurisdictions and, finally, the programs themselves.

Congress

The passage of the Juvenile Justice and Delinquency Prevention Act of 1974 and later the passage of the 1977 Act sets the tone for this discussion. A Senate Committee report proclaimed the need for providing social services to all youths, the channeling of "troublesome" youths to noncourt service agencies, and lightening the load of the juvenile court so it could give greater attention to serious delinquency (96, pp. 221-222). However, the operative sections of the final bill, in addition to the general mandate for the deinstitutionalization of status offenders, provided funds for the development of "advanced techniques" in delinquency prevention and treatment. Such techniques included community-based foster and shelter care, family counseling, diversion and intervention programs, education and drug abuse programs, and the expanded use of probation.

Office of Juvenile Justice and Delinquency Prevention (OJJDP)

The Act established the Office of Juvenile Justice and Delinquency Prevention within the Law Enforcement Assistance Administration to carry out the provisions of the Act, including the gathering of information, the development of plans, and the establishment of programs. One of the Act's primary goals is the Deinstitutionalization of Status Offender (DSO) Program, which was announced March 13, 1975. Acceptable proposals under this program would either seek legislative change in the direction of deinstitutionalization or establish programs for the delivery of services to status offenders (97).

Three points about the OJJDP DSO program deserve mention. First, since Congress cannot change State juvenile court laws, OJJDP's approach is to establish incentives for State level change that depend on local level response. Second, removal of juvenile court jurisdiction over status offenders is neither promoted nor expected (97, p. 2n). Third, OJJDP is not able to state unequivocally what the nature of "the status offender problem" is, or what substantive solutions might be.

States

Through the State Planning Agencies established under the 1968 Crime Control Act, the State operates in the middle of the decision-making chain. It is responsible for disbursing funds under the Formula Grant provision of the Act, for reviewing projects funded directly through Special Emphasis and Discretionary funds, and for coordinating all programs in the juvenile justice area into a unified "approach to juvenile delinquency prevention and treatment..."*

Jurisdictions

It is at the State and local jurisdiction levels, of course, that the juvenile justice system itself operates. The agencies that make up that system--the police, courts and corrections--can be expected to have a direct interest in programs for status offenders. On the local level the elements of the "community" exist that will originate programmatic solutions to the status offender problem, and ultimately either accept or reject those programs. Also at the local level, inherent contradictions of treatment programs that function as appendages of the traditional juvenile justice system are most manifest:

> The purpose of diverting status offenders from detention and correctional institutions is to provide needed services that escape the labeling effects of formal justice agency intervention. However, no status offender program can function without close collaborative relations with the police and juvenile court in its program area...Since one of the unavoidable concerns of justice agencies is community safety, it may be assumed that in general the greater their control over program operations the less the likelihood that program clients will undergo a delabelling experience (24, p. 10).

Program Types

The nature of status offender programs themselves will be explored later in the chapter. Yet it is important to mention the kinds of pressures these programs are subject to, regardless of their substantive content. The program may lack definitive Federal, State, and usually local guidelines for operation. Yet it is usually dependent on Federal or State levels of government for funding, and on the community for cooperation and acceptance. Added to this is the effect of professional groups, schools, local voluntary organizations, and, of course, the as yet undetermined influence wielded by the juvenile clients themselves. The literature on programs shows a cognizance of the possibilities of conflict and cooptation that endanger the success of the community enterprise (6; 26; 93), but as yet no definitive research has been done on this aspect of the program effort for status offenders. It will be one goal of this chapter to suggest possible directions for such research.

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*Juvenile Justice and Delinquency Prevention Act of 1974, Section 223(a)(8).

With this in mind, it is possible to suggest a typology of the "status offender problem," which will influence the design and operation of status offender programs. The typology consists of four approaches to the status offender problem: the Deterrent Approach, the Nuisance Approach, The Victim Approach, and the Nonintervention Approach.

1. The Deterrent Approach views status offense behavior as a potential for future delinquency. Reform of the status offender is perceived as a method of curbing minor misbehavior before it gets serious.

2. The Nuisance Approach views status offense behavior as an irrational and needless annoyance to the community.

3. The Victim Approach views the status offender as a product of unmet needs and unsatisfactory relationships, whether personal or institutional. The objective of this approach is the rehabilitation of the child to a point either where he or she can adjust to existing institutions, or adjust institutions to fit individual needs.

4. The Nonintervention Approach views status offense behavior as part of adolescent development or as a reasonable reaction to

family dynamics. It assumes that formal intervention is potentially more harmful than nonintervention.

THE TREND TOWARD COMMUNITY TREATMENT

Changes in the social organization of juvenile justice have historically been a part of more general changes in American societal control and social welfare policies. The recent trend toward community treatment of juvenile delinquents and of status offenders in particular is likewise only one example of a broad movement away from the large, centralized institution as a means of dealing with many kinds of deviant behavior.

The principle of localism which underlies the community treatment philosophy sounds a familiar theme in the history of American social institutions:

> The choice of the local level as the center of preventive action is consistent with the view that people closest to the delivery of services can best point out the difficulties of these services and make necessary improvements, if provided with the incentive and authority to take responsibility for local problems (83, p. 29).

The values are familiar, and provide the foundation for localized administration of such institutions as public education and health care. Nevertheless, a strategy of reform which seeks to bypass established local political institutions in favor of nontraditional community agencies is of more recent origin. In the early 1960's, the Kennedy and Johnson administrations legislated funding for broad community-based juvenile delinquency prevention, mental health, antipoverty, and urban development programs. According to one analysis, these programs were attempts to bypass and undermine local authorities by channeling funding to urban minorities (15, pp. 256-263).

Such programs were clearly more successful as methods of political organization than as cures for the problems to which they were addressed. Yet they were initiated in other areas, and at other levels of government. The deinstitutionalization of

California State mental hospital patients was mentioned by the Executive Director of the State Office of Criminal Justice Planning as a possible, and ominous, analogy to the deinstitutionalization of status offenders (39, p. 8). Lerman has analyzed the limitations of localism in the fate of two California juvenile correctional programs, the Community Treatment and Probation Subsidy programs (6).

This is not to suggest, of course, that the roots of the community treatment ideology are purely political. Sincere and well-founded criticisms of large warehousing institutions have been raised from sophisticated intellectual and humanitarian perspectives (93).

Many of these criticisms have found their way into discussions about the particular case of the status offender. The Senate Judiciary Committee, in a recommendation pertaining to the 1974 Act, found custodial incarceration "ineffective" as a treatment method. While admitting that evidence on the value of community-based treatment was inconclusive, the Committee recommended that the search for alternatives be continued (96, p. 223). OJJDP similarly found that, since status offenders have "adjustment problems centered in their family and community," decentralized treatment would be more effective and economical than incarceration (97, pp. 208-209).

Criticism of existing methods is not, however, the same thing as the suggestion of positive, specific alternatives. Such direction seems to have been foregone at the Federal level in favor of a more localized approach to program planning. In a particularly revealing section of its Deinstitutionalization of Status Offenders Program Announcement, OJJDP states that community resources may deal with status offenders in the following ways:

1. modifying their available resources to fit the presumed underlying etiology of types of problem behavior with which it is confronted
2. redefining the apparent problem of the youth to fit the resources that are available (97, p. 209).

Several issues emerge from the above which are beyond the scope of this research. An analysis of these issues is contingent upon first doing a thorough examination of the interplay of political, social, and ideological forces.

One issue is whether the Federal policy on the establishment of status offender programs is well conceived and executed. Perhaps this is the last question that should be asked, since in a sense policy can only be judged by its effect, in this case on the lives of children. In another sense, however, it is possible to ask whether Congressional action has achieved the standards set by empirical research, numerous governmental commissions, and its own declarations of purpose, aimed at achieving maximum good for children in need with a minimum of coercive intervention. Specifically, the fundamental question, whether deinstitutionalization or the establishment of programs for status offenders is preferable to total nonintervention, needs to be raised.

The second issue that must be raised is whether existing programs are an adequate operationalization of the Federal policy. As has already been pointed out, the substantive local level program is the result of a long series of negotiations at several levels of community and government; however, it may not be assumed that they are operating with the same perception of the child's best interests (93, p. 9). What are the latent goals of these agencies: How do these goals conflict, and with what unanticipated consequences?

The third issue is more concrete: are existing programs founded on adequate knowledge about the needs of status offenders, and are they the best mechanism for fulfilling those needs? The issue here is not primarily intellectual, but pragmatic, insofar as it involves fundamental conflicts between medical and social models of deviance, and between ideologies of treatment and reform. On the one hand, much of the current concern for status offenders has been informed by sociological thought, but social theory appears unlikely to generate any amelioration of genuine, immediate, personal anxiety. On the other hand, psychological theories have become more cognizant of the interactional components of personality, but may have practical difficulties in providing a social or political scope to the therapy experience.

Finally, it must be asked whether in sum, existing status offender programs are oriented more toward treatment or social control. Lerman distinguishes the two concepts mainly in terms of the existence of "informal social processes or...formal organizational efforts utilized to induce compliance with social standards" (6, p. 8). This distinction may be amplified somewhat by considerations of the possibility of intraorganizational controls aimed at compliance with interorganizational (hence possibly not societal) standards. Programs on the fringes of the juvenile justice system would seem particularly susceptible to such tendencies: where personnel are drawn from within the traditional system, where the cooperation of system agencies is a necessity, and where program evaluation is primarily in terms of recidivism rates, the possibility that control will supersede treatment is always possible. The crucial question that must be addressed in future research is, how much coercion is present in noncoercive programs?

SURVEY OF STATUS OFFENDER PROGRAMS

For the purposes of this discussion, a review was made of the materials regarding status offender programs. Numerous attempts were made to obtain program descriptions, evaluations, and supporting materials; however, it was found that such materials were not often available, either because they were never done, or they were currently being produced and would not be available in time for our use. In addition, the poor quality and unavailability of status offender program materials in general was a serious handicap for this assessment in determining the potential of a given program approach.

In spite of these limitations, a preliminary assessment of selected status offender programs hopefully will begin to point out the extent of the current state-of-knowledge and provide a tentative foundation for determining future directions and approaches.

AN ASSESSMENT OF SELECTED STATUS OFFENDER PROGRAMS

The Outreach Intervention Program

Although the Sacramento County 601 Diversion Program as originally implemented is conceived as a diversion project, it meets the definition of an outreach intervention project, since its major thrust is to provide juvenile status offenders and their families with a direct counseling service. According to the program's evaluation, families are given counseling for an average of five sessions. Referral services are probably provided; however, the program is designed essentially to provide its own initial counseling service. Diversion projects, on the other hand, are defined as programs which provide an intake diagnostic and emergency treatment strategy approach with an emphasis upon a referral, usually outside the juvenile justice system, to community agencies which have the capability to deliver the required service to the juvenile and his family. Therefore, diversion programs diagnose the problems or needs and make referrals, while intervention programs for the most part deliver services directly and make subsequent referrals to community agencies as needed. This distinction for some programs might be impossible since the program may be a combination of both aspects of diversion and intervention. In some cases, the distinction is more a matter of emphasis than of kinds of services delivered.

Goals and Objectives

The Sacramento County Diversion Program (32) was designed as an experiment to test whether status offenders could be better handled through short-term family crisis therapy at the time of referral rather than through the traditional procedures of the juvenile court. The project's objective is to implement a family crisis diversion program for status offenders with the intent of keeping juveniles out of juvenile hall (detention) and the family problem out of court, yet still offer counseling and help to the family. This intent is specified by four major program goals:

- reduce the number of cases going to court
- decrease overnight detentions
- reduce the number of repeat offenses
- accomplish these goals at a cost no greater than that required for regular processing of cases.

Program Approach

In addition to the extensive workload involved in processing status offense cases, the program planners sought to take into account the growing body of evidence that crisis counseling and short-term case work is one of the most effective ways of dealing with problems arising out of family situations. Based upon a preliminary study of the Sacramento juvenile justice system, a review of family crisis intervention strategies, and the widely accepted belief that the formal sanctionary system should be a last resort, the Sacramento project sought to develop a practical method of implementing these concepts.

The Relationship of the Program to the Juvenile Justice System

The Sacramento program is a joint effort between the probation department and the Center for the Administration of Criminal Justice at the University of California, Davis. The project does not handle all status offense cases. Cases in which the juvenile already has a case pending in court or a warrant outstanding, cases involving youths who are in court placement, or youths who are already on probation for serious criminal offenses are excluded. Also, cases involving referral by citation or other nonbook referral were initially excluded since they did not have the potential of being detained and do not require intensive handling. These cases are handled by the regular intake staff. Therefore, the diversion program handled all status offense case referrals in which the juvenile was not on formal probation for a serious delinquency.

Evaluation

Considering the goals of the program, the evaluation of the first year activities would indicate that for the most part the program was successful. During the first year, the program handled over 500 cases. The evaluation concluded the following:

- the number of court petitions was reduced by over 80%
- overnight detention was reduced more than 50%
- the number of youths involved in repeat offenses of any kind was reduced by more than 14%
- the number of youths subsequently becoming involved in criminal behavior was reduced by 25%
- the cost of the new technique was less than half the cost of previous procedures.

The evaluators were especially impressed with their findings regarding recidivism. According to their evaluation, the Sacramento approach shows a clear record of improvements for a large number of cases.* In spite of the fact that many status offense cases were diverted and did not recidivate within a 12-month period, the rate of repeat behavior involving conflict with the law was high. At the end of the year, 54% of the control group had been rebooked for either a status offense or a violation of penal code, while the project group recidivated at a rate of 46%. Although this is less than the control group, it is too high to believe that the project was a great success. In addition, these recidivism figures for the control and experimental group reflect the number of youths rebooked for a new offense within a 12-month period, but they do not reflect the total number of new offenses for both groups since each recidivist is counted once regardless of the number of offenses he commits during the year. If the total number of new offenses committed by the control and experimental groups are considered, it indicates that for the control group, 71 juveniles had subsequent bookings for status offenses, whereas juveniles from the experimental group had 64 subsequent bookings. Accordingly, these figures in effect indicate that for each 100 project youths there were 17.5% fewer new bookings than there were for the same number of control youths, approximately 10% fewer status offense new bookings, and approximately 29% fewer delinquency bookings. Therefore, the effect of the project upon recidivism appears to be evident, but not extensive.

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*The evaluation of the Sacramento County 601 Diversion Project can be obtained as a result of the program being selected as an LEAA Exemplary Project. This discussion of the evaluation will only discuss the major highlights of that evaluation. For a more complete description of the program and its evaluation see Baron and Feeney (32).

All in all, the project appears to have had a greater impact on reducing the number of cases going to court, the number of juvenile status offenders being detained overnight, and total costs to the system than it did in reducing repeat violation. Follow-up study of the results of the second year of the program appear to be somewhat more substantial; however, the program is still not a panacea for reducing the rate of status offenses in a community. At best, the program appears to offer a more humane, efficient and effective approach to the handling of the status offenders than formal juvenile justice system processing which often involves periods of detention with no counseling or services directed at the problems of the status offender.

Discussion

Because of the success of the Sacramento County 601 Diversion Project and the publicity surrounding it, the model has been duplicated with some modifications to meet local requirements in a large number of jurisdictions. From the material received, it appears that all of these jurisdictions are finding that the results have been promising.

The Juvenile Diversion Program

The Santa Clara County Diversion Program is a county probation department response to the need for developing alternatives to involving the pre-delinquent in the juvenile justice system (35). It was funded under a Law Enforcement Assistance Administration grant in an attempt to demonstrate a program model that would foster the handling of status offender cases at the local level outside the juvenile justice system by developing new mechanisms to meet the needs of juvenile status offenders which do not nurture a delinquent or criminal identification.

The program is based essentially on the premise that law enforcement personnel can refer pre-delinquents to sources of help in the community _before_ official referral of the juveniles takes place. Implicit in this premise is the belief that sufficient community alternatives can be developed through coordinated efforts.

Goals and Objectives

The goal of the Santa Clara County Diversion Program is to encourage law enforcement departments within the county to refer status offenders to community agencies for services rather than refer them to the county probation department. In addition, the program is to foster the development of local community alternatives to deliver these services. The objectives of the program are three-fold:

1. To reduce anticipated Welfare and Institutions Code 601 referrals to the Santa Clara County Juvenile Probation Department by 66%.
2. To create within the geographic area served by each of the 12 law enforcement jurisdictions expanded and improved services for pre-delinquent juveniles.

3. To demonstrate, test and evaluate the Santa Clara County Pre-Delinquent Diversion Program model.

Program Approach

Since the program was a demonstration project run by the county probation department to test the feasibility of using local community resources to serve status offenders identified by the police instead of the county probation department, the major emphasis of the first year was to provide law enforcement agencies within the county with the capability of developing programs within their communities to meet the needs of status offenders and to serve as receiving agencies.

The Relationship of the Program to the Juvenile Justice System

The Santa Clara Diversion Program essentially is a demonstration project aimed at encouraging and enabling law enforcement departments to make use of community resources for status offenders rather than referring them to the county probation department. The program is an example of what can be accomplished through the cooperation and coordination of a county probation department and law enforcement agencies within the county. In this instance, the probation department took an active role in assisting local law enforcement agencies by providing technical assistance in program development, problem solving, budget assistance, and training. Therefore, the probation department was able to create both an incentive and increased capability in 12 jurisdictions in reducing referrals to the juvenile probation department and the juvenile court.

Evaluation

The evaluation of the Santa Clara County Diversion Project compared second year results with first year findings, as well as with a pre-program sample. The evaluation essentially supported the contention that the program has met its goals and objectives. In addition to saving the county $531,350 and reducing recidivism among status offenders, a total of 110 community resources were used by the police during the first two project years as compared to 15 resources prior to the program.

Discussion

The Santa Clara Diversion Project suggests the feasibility and use of services outside the juvenile justice system as a realistic approach for the handling of the status offender as compared to formal judicial processing. The benefits are more than in savings of dollars and time; the ultimate reduction in the number of status offenders penetrating the system would have to be calculated in more human terms.

The Santa Clara County Diversion Program can serve as a model of community involvement with the status offender problem. Through the cooperation of the police, probation and community agencies, large numbers of juveniles who would have been referred to intake and possibly negatively affected by the ordeal were diverted to services. Although the evaluation does not present the story behind the increased development of community resources, such development did occur. This indicates that communities can become more responsive and less dependent upon the official system in meeting the needs of their youths. Recidivism rates are only a partial measure of the success of such a program. The individual impact of each community service agency upon the juvenile and the family is overshadowed by such a measure. One of the findings of the evaluation is that the traditional approach (pre-program) is not working. The program did improve the situation by reducing referrals, decreasing probation and court work loads, as well as getting each community to be more responsible.

The Santa Clara diversion model could be improved upon. As suggested by the evaluation, more training for patrolmen in techniques of crisis intervention, effective communication with the family conflict situation, and case referral to community agencies, training for juvenile probation department intake personnel focusing on diversion techniques prior to booking and interaction approaches with the police, more energies and funds directed toward the development of community-based agencies designed to deliver short-term crisis services on a 24-hour, seven-day-a-week basis, and further refinement of the program would improve the overall success of the Program.

Youth Service Agencies

According to the NCCD publication, The Youth Service Bureau, a "Youth Service Bureau is a noncoercive, independent public agency established to divert children and youth from the justice system by (1) mobilizing community resources to solve youth problems, (2) strengthening existing youth resources and developing new ones, and (3) promoting positive programs to remedy delinquency breeding conditions."* Although the National Council on Crime and Delinquency suggests the youth service bureau should not be a part of the justice system, youth service bureaus may accept referrals from the justice system. Youth service bureaus should preferably be organized on a town-, city-, or county-wide basis as part of an independent agency. The three youth service bureaus discussed in this section are a part of the official juvenile justice system.

Youth service bureaus have in common three interrelated functions--service brokerage, resource development, and system modifications; however, there is no prototype for a youth service bureau. Each community or jurisdiction generally determines which particular

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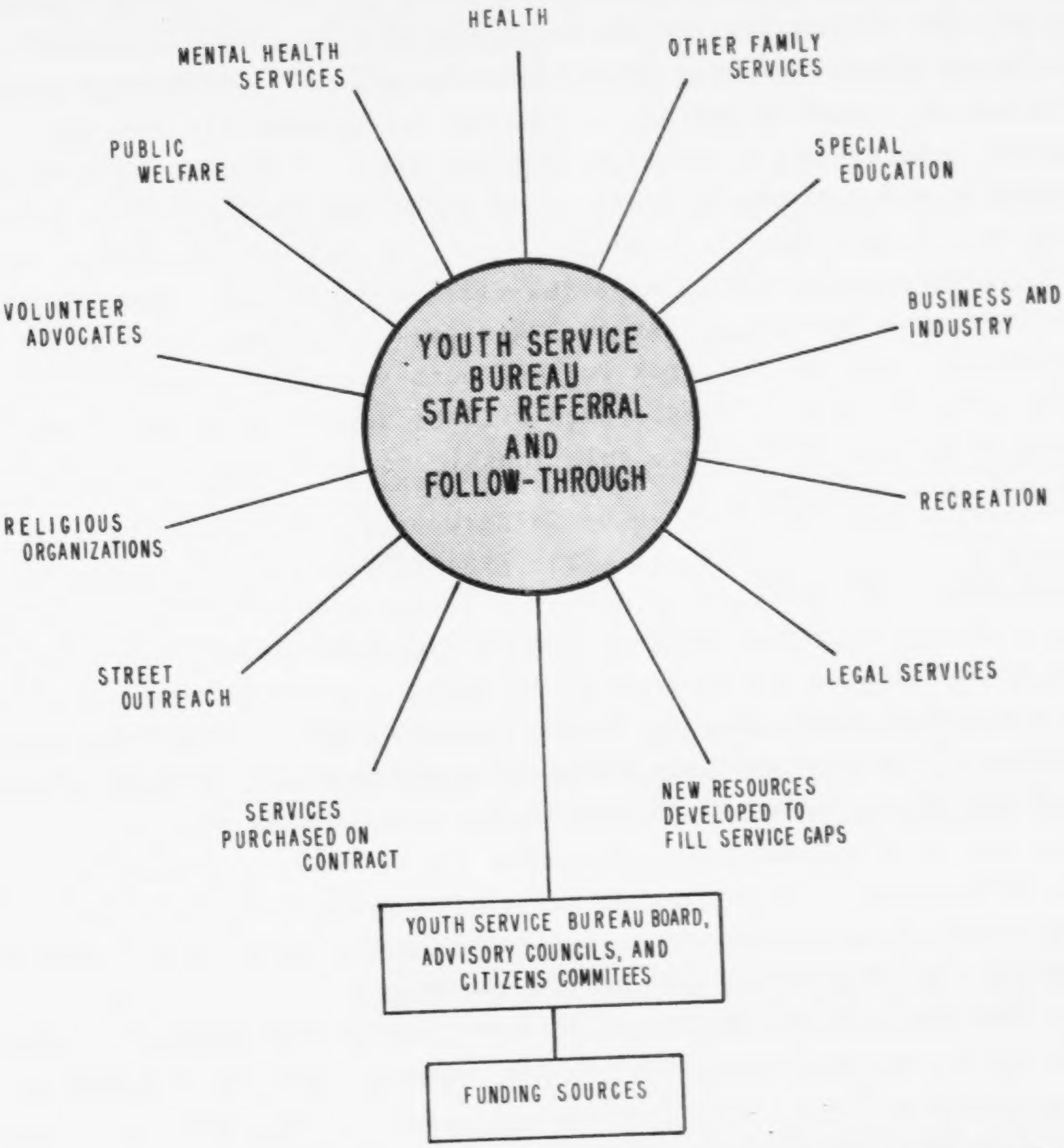
*For useful information in designing, implementing, and evaluating youth service bureaus as well as descriptions of five programs, see Norman Sherwood (23).

FIGURE 18

SERVICE BROKERAGE AND RESOURCE DEVELOPMENT


HEALTH
MENTAL HEALTH SERVICES
OTHER FAMILY SERVICES
PUBLIC WELFARE
SPECIAL EDUCATION
VOLUNTEER ADVOCATES
YOUTH SERVICE BUREAU STAFF REFERRAL AND FOLLOW-THROUGH
BUSINESS AND INDUSTRY
RELIGIOUS ORGANIZATIONS
RECREATION
STREET OUTREACH
LEGAL SERVICES
SERVICES PURCHASED ON CONTRACT
NEW RESOURCES DEVELOPED TO FILL SERVICE GAPS
YOUTH SERVICE BUREAU BOARD, ADVISORY COUNCILS, AND CITIZENS COMMITEES
FUNDING SOURCES

SOURCE: ADAPTED FROM NORMAN SHERWOOD, THE YOUTH SERVICE BUREAU: A KEY TO DELINQUENCY PREVENTION, NCCD, P. 15, 1972

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type of organization and emphasis can best divert its children from the juvenile justice system and reduce the possibility of future court involvement. Regardless of the particular organization and emphasis, the eventual goal of a youth service bureau is to perform all three closely related functions.

NCCD perceives a youth service bureau function more as an agency for organizing the delivery of services to children and their families than as a direct service agency. Its unique role emphasizes its relationship to youths and to agencies serving youths. Essentially, it is to serve a referral and coordinating function and not compete with other direct-service agencies (see figure 18, p. 135).

Three youth service agencies will be discussed: the Benton County Youth Service Bureau in Arkansas; Directions, in Cloquet, Minnesota; and the Bismarck Police/Youth Bureau in North Dakota. Following the above format, each will be described in terms of program goals, approaches, relationship to the juvenile justice system, and evaluation.

Goals and Objectives

The three programs under examination differ in the specificity and extent of their stated program goals. At one extreme, the Benton County Youth Service Bureau defines itself as a "preventive program aimed at diverting youth" from the juvenile justice system.* No measurable goals were stated in the information available on this project. At the other extreme, the Directions project states two measurable objectives: to reduce the number of status offenders petitioned to juvenile court, and to achieve a maximum recidivism rate of 50% for project youths (59, p. 4).

The goals of the Bismarck Police/Youth Bureau reflect a somewhat different emphasis. First, the program seeks to develop "a comprehensive juvenile delinquency prevention effort." Second, it attempts to reduce the level of juvenile delinquency in the community. Third, it seeks to improve the local juvenile justice system (37, p. 24). These goals are, as the program evaluation states, fairly abstract. The steps listed as operationalizations of these goals, however, while concrete, are not stated in terms of outcome or effect (37, p. 25).

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*Letter from Anna L. Smith, Director, to National Juvenile Justice System Assessment Center. 28 October 1977.

The failure of many of these projects to formulate measurable indicators of program performance, particularly those having to do with satisfactory delivery of services and client outcome, is perhaps a function of the somewhat restricted "middle-man" role of the youth service agency. Where referral is the primary function of the agency, it is possible that clients are in some degree "lost" to the system at the point of referral.

Program Approach

The programs examined here differ in terms of the amount and type of services provided within the program, and the amount of control exercised over clients. The Bentonville program appears to provide the most direct services of the three, including individual and family counseling, shelter care, and advocacy services as well as referrals. Referral is preceded by a diagnosis and the development of a treatment plan, which seeks to involve not only parents, but also schools wherever necessary.

The Directions and Bismarck youth service agencies, on the other hand, appear to place relatively less emphasis on the delivery of services and function more obviously as appendages of the traditional juvenile justice system. Directions avowedly functions to "increase the availability of probation services" by turning some probation responsibilities over to volunteers. Program procedure follows this agenda: participation is offered to the youth as an alternative to court, and petitions are held in abeyance pending successful completion of the program (59, p. 5). It is important to note that youths who deny the offense are not eligible

(59, p. 2). The first step in the process is an interview and "needs assessment" and the development of a treatment contract. The duration of the treatment period, finally, is dependent on the juvenile's "progress" (59, p. 5).

The Bismarck program is an appendage of the local police department. Perhaps as a result of this, the diversion and treatment of status offenders are only one of four major aspects of the program. Other elements include an education segment, designed to improve the knowledge and attitudes of juveniles toward police; an in-service training program for police; and a general community relations effort. The diversion effort channels youths into counseling of an unspecified nature (59, pp. 6-8).

The Relationship of the Program to the Juvenile Justice System

There is a symmetry between the program approaches, as stated above, and the ways in which these three youth service agencies are related to the juvenile justice system. Both the Bismarck and Directions programs are directly run by their respective police departments, and both receive most of their referrals at the arrest stage in the juvenile justice process (59, pp. 16 & 81). In the Bismarck program, furthermore, the citing officer is kept informed of the client's progress until the case is closed (37, p. 83). The Benton County Youth Service Bureau is a private agency that receives 61% of its referrals from the juvenile justice system as a whole, including 12% from the police, 19% from the court, and 29% from the Juvenile Probation Department of Benton County.*

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*Letter from Anna L. Smith, Director, to National Juvenile Justice System Assessment Center. 28 October 1977.

Evaluation

The information available does not allow a definitive evaluation of this type of program. It is possible, however, to discuss the conspicuous inadequacies in the data at hand, and to speculate on why they exist.

All three programs were able to provide some basic demographic data on the status offenders and other juveniles who became clients. The Directions and Bismarck agencies were able to cite recidivism rates. Beyond these limited statistics, none of the programs presented any data that would indicate in concrete terms either how the program functioned, or the outcome of the program.

Indication of program functioning, e.g., diagnostic and decision-making criteria, and the utilization of various types of community resources, would seem to be particularly important in evaluating a referral agency. Both consistency within the agency and possible replication of a program in another context depend on the rational formalization of procedures. Finally, insofar as programs are intimately related to the traditional components of the juvenile justice system--in the case of the Directions and Bismarck programs, the police--formalized procedures and adequate data are prerequisites to maintaining program accountability and assuring that diversion oriented programs do not become mere extensions of established social control agencies.

The lack of sound evaluations of youth service bureaus appears to be widespread. A study of Evaluations of Juvenile Delinquency Prevention Programs found that little conclusive information was available as to the programs' success except to say that 10 out of 12 of the programs reviewed contained relatively positive outcomes indicating the effectiveness of youth service bureaus. The researchers found that some common threats to the validity of these findings were the lack of comparison groups, the lack of follow-up information, and the heavy reliance on subjective opinion (42). Therefore, although youth service bureaus appear to offer a potentially promising approach to the delivery of community services to status offenders and their diversion from the juvenile justice system, more research and evaluation is required before the extent of that potential can be substantiated.

Shelter Care Programs

The development of shelter facilities was specifically mandated in the 1974 Juvenile Justice and Delinquency Prevention Act as a means to facilitate the removal of status offenders from secure detention and correctional facilities.* It is thus important that these programs be closely examined and comprehensively assessed. This discussion is limited to three shelter facilities for status offenders on which information is available: the Capital District Non-Secure Detention Program in Schenectady, New York; Westchester Non-Secure Alternative for PINS in White Plains, New York; and the Eau Claire County Shelter Care Project in Eau Claire, Wisconsin.

The point should be made at the outset that according to the data, shelter homes seldom operate as organizationally isolated units. Both the Capital District and Westchester programs are networks of shelter and foster homes. The Capital District homes are operated by contractual agreement within more than one county. In Westchester and Eau Claire, the actual delivery of services is subcontracted to a private social service agency, and administrative responsibility is maintained by the parent project. The Eau Claire project is funded by the State of Wisconsin, administered by the Eau Claire County Department of Social Services, and operated by a private subcontractor. Thus each represents a somewhat different pattern of funding and administration (see figure 19, p. 139). The possibility that these different structures lead to differences in operation and evaluational results must remain unexplored in this report.

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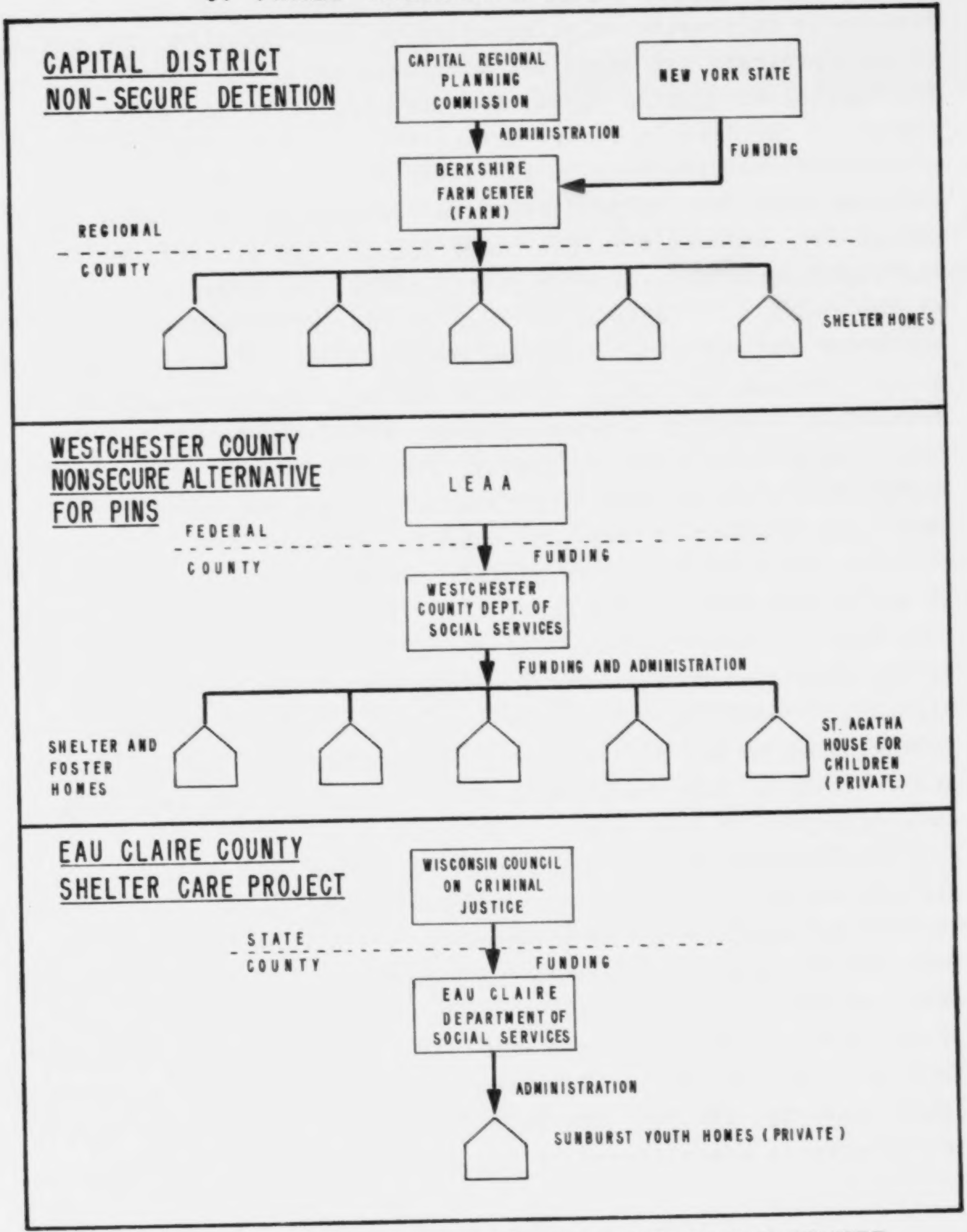
*Public Law No. 93-415, Section 223(a)(12).

FIGURE 19

ORGANIZATIONAL RELATIONSHIPS OF THREE SHELTER HOME PROGRAMS


CAPITAL DISTRICT NON-SECURE DETENTION
CAPITAL REGIONAL PLANNING COMMISSION
NEW YORK STATE
ADMINISTRATION
FUNDING
BERKSHIRE FARM CENTER (FARM)
REGIONAL
COUNTY
SHELTER HOMES
WESTCHESTER COUNTY NONSECURE ALTERNATIVE FOR PINS
LEAA
FEDERAL
COUNTY
FUNDING
WESTCHESTER COUNTY DEPT. OF SOCIAL SERVICES
FUNDING AND ADMINISTRATION
SHELTER AND FOSTER HOMES
ST. AGATHA HOUSE FOR CHILDREN (PRIVATE)
EAU CLAIRE COUNTY SHELTER CARE PROJECT
WISCONSIN COUNCIL ON CRIMINAL JUSTICE
STATE
COUNTY
FUNDING
EAU CLAIRE DEPARTMENT OF SOCIAL SERVICES
ADMINISTRATION
SUNBURST YOUTH HOMES (PRIVATE)

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Goals and Objectives

Since the main role of the shelter facility for status offenders is to provide an alternative to incarceration, the goals of such programs are sometimes ambiguous and often unstated. The Capital District program, for example, seeks to reduce the number of children in secure detention; to reduce inappropriate placements made in haste by the juvenile court; and to provide children with "protection" from the "temptation, contagion, and stress they encounter in the home, school, and street" (36, p. 3). The Westchester program orients its goals more overtly to the needs of the court. It seeks first to give the court the opportunity to "study the [child's] case and come to a final disposition" (102, p. 2). Second, for those children who will not be returning home, Westchester provides a means of preparation for future institutional life (102, p. 2). Finally, like the Capital District, Westchester aims at providing "a release from the toxic (for the child) environment of home, or school, or peers" (102, p. 1).

The Eau Claire shelter project is the only one of the three to set measurable performance goals. It aims at providing community-based shelter care for 250 youths in the first years of operation; giving an opportunity for improved social service case planning; counseling 250 youths upon entrance to the program; following up on 85% of its cases, for the purposes of assessment and evaluation; and producing a 95% reduction in the rate of secure detention in the county (104, p. 4).

Differences among the programs regarding their stated emphasis and degree of specificity of stated goals may indicate little about their differences in program operation. The emphasis and goals of the program appear to have more to do with the relationships of the programs to the juvenile court. For example, evaluation comments concerning the Eau Claire program indicate that they have had some difficulty securing referrals from the juvenile court (104, pp. 16-17). How much this is due to the fact that the program is administered by the Department of Social Services is unclear. It is clear, however, that the goals the project sets out are as much quotas for achievement of a successful relationship with the juvenile court as they are standards for the delivery of services.

Program Approach

Since shelter care is fundamentally a "holding" operation that serves clients with a variety of problems, such programs reveal great concern for the quality of the staff, their tolerance and ability to enforce rules, as the central element of program success. In most cases, a homelike atmosphere is sought; hence married couples are generally employed in a houseparent capacity (36, p. 5).

Beyond this, the shelter homes examined here seem to vary greatly in the amount and type of services that are provided. Perhaps because detention facilities are prohibited from mounting full-scale treatment programs in New York State (102, p. 5), the Capital District and Westchester programs offer the least in this regard. Capital District claims only 24-hour supervision of clients, which includes both delinquents and PINS (36, p. 5). Westchester specifies that it offers physical, medical and dental care, activities leading to education and social growth opportunities, school registration, and "intensive supervision" (103, pp. 7-8). This apparently refers to the use of a modified behavior modification approach that awards privileges in return for good behavior (102, p. 2). The County Probation Department is relied upon for more intensive diagnosis and treatment (103, p. 9).

The Eau Claire shelter home, on the other hand, provides some structured treatment in addition to the familiar rules and privileges exchange regimen. Residents participate in nightly "rap sessions," and a goal is set of one consultation a week including the child, a social worker, the houseparents, and the child's parents. (These consultations actually averaged one every four weeks per child.)

Available information also specified a wide range of recreational activities, many of which are conducted outside the facility (104, pp. 10-11).

The Relationship of the Programs to the Juvenile Justice System

None of the three programs discussed here are funded or administered directly by a juvenile justice system agency. Yet, as stated above, they differ in the degree to which they have achieved successful working relationships with the juvenile justice system. In this type of program, where operations are in the hands of entrepreneurial private agencies, good relations with the system--in the form of frequent referrals--are necessary for the continuation of the program.

Both Capital District and the Westchester shelter facilities receive most of their referrals from juvenile justice agencies, while most referrals to Eau Claire are from the county Department of Social Services. Specific sources of referrals are summarized in figure 20 below.

Figure 20

SOURCE OF REFERRALS OF THREE SELECTED SHELTER HOMES

	Capital District	Westchester	Eau Claire
Police	11%	10%	12%
Probation	--	44	--
Court	55	38	4
Corrections (secure)	15	7	--
Social welfare	19	--	70
	100%	99%*	86%*

*Remainder from other nonsecure facilities, parents, or self-referral.

SOURCE: National Juvenile Justice System Assessment Center Program Survey

The Eau Claire shelter evaluation attributes the low rate of referrals from the juvenile court to a general lack of knowledge about the project among judges. The result is a higher rate of secure detention than would otherwise be necessary. The evaluation predicts a favorable change in court policy as the program's effectiveness is demonstrated (104, p. 53).

Evaluation

The Eau Claire Shelter Care Project has made a useful evaluation available for discussion, conducted by the Program Evaluation Section of the Wisconsin Council on Criminal Justice. It includes such evaluation data as budgets, staff information, statements of policy and data on "transactions" (i.e., referrals, dispositions, discharge destinations, length of stay, client background and offense, and frequency of social worker contacts with clients). In addition, however, separate sections of the evaluation are devoted respectively to program outcome and impact on the juvenile justice sytem.

Program outcome was measured, first, in terms of runaway rates; second, in terms of program readmissions; and third, on the basis of client interviews. Similarly, program impact was judged in terms of the county's secure detention population, and interviews with key people in the juvenile justice system. This juxtaposition of quantitative and systematic qualitative data is unique in our examination of program data.

The Westchester and Capital District programs did not provide evaluations; only proposals and general in-house program descriptions were provided. None of these materials provided much in the way of client characteristics, outcome data, or information on system impact. Hence any statements made here on the evaluation of shelter care in general, or by way of comparing different shelter care programs, will be highly tentative.

One study has examined the available research on shelter care facilities under the general heading of "community treatment" programs. They conclude that findings on the effectiveness of such programs are scarce, and their ultimate endorsement is almost by default. That is, community correctional facilities are found to be no worse than incarceration; they hold great promise for the future; and finally, the use of shelter care is certainly less expensive than the incarceration of status offenders (42, pp. 29 and 33).

In another study, however, Pappenfort and Young (79) point out some possible abuse of nonsecure detention, particularly as it is used for noncriminal and juvenile misdemeanants:

> As detention alternative programs increasingly become resources for juvenile courts to use there is a real danger that (1) the programs will be turned away from their main task of protecting communities and that (2) an increasing number of youths who need social services will be labeled alleged delinquents or status offenders in order to receive them (79, pp. 137-138).

It has already been suggested, for the three programs on which information was available, that program goals and approaches varied based upon the relationship of the program to the juvenile court. For example, the Westchester and Capital District facilities saw themselves as resources available to improve the functioning of the court. Furthermore, it was apparent that the Eau Claire program was seeking, but had not yet achieved, a well-functioning relationship with the juvenile court. Whether the program's search for consistent sources of referrals leads to "overreach" on the part of the courts is not clear. Pappenfort and Young, however, maintain that only formal written criteria for referrals can prevent such overreach (79, p. 138). No evidence was found that any such criteria existed for these three programs. Thus the effectiveness of these programs cannot be evaluated and further research on this subject is required.

The Juvenile Conference Committee

Final mention must be made of a type of program which is not particularly new, which was not developed primarily to deal with status offenders, and on which information is extremely scarce, but which offers a potentially useful approach. The New Jersey Juvenile Conference Committee Program was chosen for inclusion here because it does deal with a high percentage of status offenders, and because it does so in a unique way that seems to embody many of the recommendations made in previous studies on the community treatment of status offenders.

The program may be described briefly. A Conference Committee consists of at least six local citizens, and functions in lieu of the juvenile court to "deal with a vast middle ground of juvenile behavior, neither harmful enough to require formal adjudication nor innocuous enough to be overlooked by the community" (74, p. 1). More specific description will be presented as this discussion continues.

Goals and Objectives

The Conference Committees have five stated goals, all rather abstract and nonquantifiable. The first goal is to meet with juveniles, to "define, explain, and reinforce the substantive norms of the community." Second, they seek to motivate and provide an opportunity for change in the juvenile's behavior before more serious infractions occur. The third goal is to avoid the stigmatization of formal juvenile court processing; the fourth, to bring local citizens into the juvenile delinquency problem; and fifth, to reduce the amount of attention demanded of the juvenile court for minor cases (74, p. 1).

None of these goals are, by themselves, particularly unique. The desire to protect the community, assert norms, change behavior and avoid stigmatization is articulated by many programs. Furthermore, community level involvement as a means to deal with juvenile misbehavior is steadily becoming a more credible alternative to incarceration. As the following discussion of program approach makes clear, however, the Conference Committee is unique in that it seeks to involve citizens _as_ citizens, and does not require that that involvement be filtered through participation in professional treatment or law enforcement agencies.

Program Approach

Conference Committees accept referrals of minor and first offenders from the juvenile court, many of whom are status offenders. Committees are established in communities, and it is required that juveniles appear before their local Committee.* Once given the opportunity, the juvenile chooses voluntarily whether to appear before the juvenile court or the local Committee.

The Conference Committees have no legal punitive or supervisory authority. They are empowered to speak with the juvenile, make recommendations--which may include referrals to community agencies, or the payment of restitution--and forward a report to the court. Juveniles may not be institutionalized at the behest of the Committee. Failure to appear or to follow the Committee's recommendations will, however, cause the juvenile's case to be returned to the juvenile court (74, pp. 2-3).

The Relationship of the Program to the Juvenile Justice System

The Juvenile Conference Committees function as a direct adjunct to the juvenile court (74, p. 2). They were created by a rule of the New Jersey Supreme Court in 1953 (74, p. 1); and the county juvenile court maintains responsibility and control by screening and appointing all Conference Committee members (74, p. 7). Nevertheless, Committees have neither the authority nor the power of the juvenile court (74, p. 2). It is certainly not surprising, and probably not a handicap, that the Conference Committees may not exercise the power of the juvenile court in enforcing the recommendations made to juveniles. However, when the possibility is raised of duplicating the program, and vesting it with responsiblity for the delivery of services, this lack of legal authority may prove to be more critical. More attention will be paid to this problem below.

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*Not all communities, however, maintain Juvenile Conference Committees. For demographic details, see 74, pp. 6-16a.

Evaluation

It is certainly beyond the capability of the available information to attempt an evaluation of the Juvenile Conference Committee concept. For one thing, no evaluation is available, as far as is known; for another, the Conference Committee idea has not been explored for its potential applicability to the specific problems of the status offender. Nevertheless, two generic features of the Committee idea appear worthy of mention.

First, where the Committee is representative of community citizens, and not merely of community professionals, the opportunity exists to utilize local knowledge of the juvenile and his or her social context, and to assert norms that are most meaningful within that context. Juvenile courts customarily exist in the county seat, far removed from the geographical and cultural milieu of the neighborhood. It is suggested that genuinely representative community boards may to some degree redress the political imbalances, caused by differences in ethnicity and income, that threaten the legitimacy and effectiveness of the juvenile justice system. It is significant in this regard that the Conference Committees in New Jersey have been criticized for a failure to exclude juvenile justice professionals from membership (74, pp. 10-11).

Second, the Conference Committee concept may provide a way to reassert the communities' role and responsibility for dealing with problems of noncriminal misbehavior in juveniles. While the complaint is often made by justice system officials that the juvenile court has become by default the repository of problems that should properly be handled by the family and the schools, the system has not as a whole come up with an acceptable method of returning responsibility to the community, nor sought aggressively to assure the delivery of services to the juvenile. Perhaps local citizens, effectively empowered, are in a better position to determine and ensure appropriate care for juveniles in need.

A review of the literature disclosed no equivalents to the distinguishing characteristics of the Conference Committee concept--i.e., the combination of juvenile court control and community peer group planning. Three other features of the program, however, are rated favorably in the literature:

1. The use of nonprofessionals, often in a one-to-one setting, was found effective in projects in California, Arizona, and Michigan (42, pp. 41, 47, and 82).
2. Diversion from court was found effective in reducing inappropriate behavior and costs to the juvenile court in a California program (42, p. 40).
3. The technique of referring juveniles to community services was found effective in the same project (42, p. 40).

Finally, it may be concluded that the Conference Committee approach appears to have promise if applied to the status offender area. It must be emphasized, however, that this concept has two critical weaknesses that must be addressed if its potential is to be realized. The first weakness is that the New Jersey Conference Committees, like the juvenile justice system in general, lack the authority to require the delivery of services to the juvenile in need. The second weakness lies in the Committees' apparent difficulties in maintaining a membership that is truly representative of the community. Whether this difficulty is a result of a lack of interest in the community, or a failure on the part of the juvenile court to recruit aggressively among minorities and low-income people is not possible to say. Further experimentation and research with this type of program should be encouraged.

PROBLEMS IN THE ADMINISTRATION AND ASSESSMENT OF STATUS OFFENDER PROGRAMS

Problems of Knowledge, Planning, and Administration

If one believes that identification of social problems naturally precedes the discovery of solutions for those problems, it is not difficult to have faith in the ultimate rationality of the current process of planning status offender programs. The system, as it has been presented, works like this: once a problem has been recognized--in this case, the unjustified incarceration and failure to identify and meet the needs of status offenders--centralized agencies of State and Federal government make funding, information, and coordination facilities available to community agencies and organizations who apply those resources in a manner most suited to local circumstances. These local groups, because of their empirically advantageous viewpoint, are in turn able to provide a feedback loop of information to aid the centralized agencies in further planning and exchange of information.

An alternative perspective may be suggested, however: people, at whatever level of government, who have solutions, are capable of creating or defining social problems. The implications of this are more serious; some definitions of a social problem are more threatening to the social order than others. When a funding agency sets parameters on legitimate definitions of a problem, problem-solvers tend to restrict their discourse to those parameters, whether they are effective or not.

Something like this appears to have happened in the status offender area. On the one hand, at the Federal level there has been a recognition of the possibility that the broad range of behaviors and attitudes so classified--incorrigibility, truancy, running away, and so on--has at its root pervasive conditions of social and family disorganization, disadvantage, and injustice. The National Advisory Committee on Criminal Justice Standards and Goals, for example, indicated running away from home can be a constructive act of fleeing a dangerous situation, and that if the proper resources are made available, runaways may be left responsible for themselves; and that truancy can result from the family, from conditions of social disadvantage, or from inferior schools (63, pp. 323-325). Nonetheless, when it came to making concrete recommendations, the Task Force located the source of status behavior in the family and suggested the concept of "Families with Service Needs" be tied to programs of family counseling and crisis intervention aimed at strengthening the family (63, pp. 12-17).

Only with great reluctance have the juvenile court and Supreme Court tampered with established power relationships between children and social institutions such as the family, the school, and agencies of social control. It is certainly the line of lesser resistance to attempt to reconcile the child with those relationships rather than to accept the possibility that, as one critic has maintained, "our society's principal socializing institutions neither represent nor practice the very values that comprise either our own historical national rhetoric or their own immediate social mandates" (2, p. 54). It may be difficult to expect children to become "productive citizens" in a nation where unemployment seems widespread; to teach them respect for the individual under circumstances where they are stigmatized and often treated as delinquents for certain behaviors due to their age; or to expect of them honesty and generosity when so much of their fate lies entirely outside their control.

There have been, it can be seen, some attempts to make the "treatment" of status offenders more than an exercise in "blaming the victim." The Massachusetts experiment in "radical" correctional reform is an example of an attempt to go beyond the traditional individualized treatment modality, and the labeling inherent in it, and establish a "group" model of interactional therapy, aimed not at rehabilitation, but rather at "reintegration":

> Proponents of the reintegration strategy believe that adults and youth must be supported in their attempts to cope with the realities of their situation... This strategy tries to bring to bear on the offender and his situation appropriate community resources that will provide the necessary link for the offender to discover a legitimate role in the community and forestall further delinquency (93, p. 28).

Issue may be taken with two key concepts used here. The first is that of "community." Whether "community" is taken to mean, as in the above quote, a free market of services and identities, or in the more sophisticated sense in which Sutherland and Cressey used the term (27), as a stable environment of individuals that can be counted on to support uniformly the adherence to social norms, its actual existence is extremely problematic. Whether one's point of reference is the suburb or the inner city, in a highly mobile society the vision of "community" may be illusionary. With this in mind, Goldenberg has predicted that whatever their claims, new community treatment settings will be clinically oriented, will see problems as problems of individuals, and will have close relations with other agencies in the community (2, pp. 51-52).

The second problematic concept is that of "delinquency prevention," particularly as it is applied to the treatment of status offenders. Certainly it is a convenient and much used justification for juvenile court jurisdiction over status offenders, and for the establishment of status offender programs. But is this an adequate justification for intervention in children's lives which results in a restriction of freedom? Edwin Lemert holds that the ideology of delinquency prevention "rests upon uncritical conceptions that there are substantive behaviors, isometric in nature, which precede delinquency, much like prodromal signs of the onset of disease..."; however, research and theory refute the idea of fixed, inevitable sequences in delinquent or criminal careers. Research has failed to indicate behavior patterns or personality tendencies which are antecedents of delinquency and it is likely that they never will be indicated (5, p. 93).

Another attempt at nonstigmatizing treatment that implies no specific treatment ideology is the "systems" approach to youth services--the youth service bureau, for example. This type of program aims at tying a broad spectrum of community services into a formal network for referral and coordination (22). It represents an extension of the free market ideology that characterizes most program planning; the services are there, and only the proper channeling is required to assure that the right services reach the right clients.

This approach rests on the implicit assumption that there are rational remedies available for easily categorized problems. It ignores the ambiguity and complexity of status offender problems and the tendency of organizations and agencies to "define" ambiguous problems as being within their purview. While this approach claims to be integrative, it appears to duplicate the generalist/specialist organization of some disciplines that has proved so inadequate at dealing with "whole" human problems.

This section may be summarized by saying that, since so little research is available concerning the needs of status offenders and the range of legitimate interpretations of those needs has been so limited, the eventual outcome of current status offender programs is problematic at best. The next section discusses the likely effects of interagency conflict upon program outcome.

The Problems of Conflicts in Perceptions and Approaches

Miller ventures the hypothesis that participation in delinquency prevention programs serves a variety of "latent functions" for various support groups.* The incompatibility of latent functions--between social control and rehabilitation agencies, for example--results in three major kinds of conflict: discrepancies between stated policy and procedure; failure to follow through on plans contrary to latent functions; and conflict over goals and methods between institutions and their subunits (10, p. 407).

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*The concept of latent function, developed by Robert Merton, is used to denote factors which are not clearly or outspokenly given as functions of support groups. As it is used here, it is similar to the concept of the "hidden agenda."

The earlier presentation of the typology of status offender "problems" is relevant here. Officials of treatment, control and welfare organizations deal in models (or stereotypes) that imply specific etiologies and standardized methods of treatment (21, p. 120). It is significant that, while many institutions exist for the purpose of processing delinquents, there are not established institutional structures for "delinquency prevention" (10, p. 408) and certainly no dominant standardized procedure for dealing with the problems of noncriminal misbehavior. In this definitional vacuum, conflict over programs takes place on the issue of whether the status offender is to be treated as a nuisance, a victim, or a potential criminal.

The existence of imprecise and conflicting definitions is directly related to the dimension of treatment and social control. Where definitions are at issue between agencies, relative power within the community may be expected to determine which definitions are ultimately dominant unless a formal policy of diagnosis is established and enforced. In the case of status offender programs, diagnosis is at the discretion of the police, simply by virtue of the fact that referrals are made in terms of the purported "offense." Lerman has summarized the definition contingencies of treatment and control:

> The evidence indicates that we compound the original problem of delinquency by permitting systems of control/treatment to operate under discretionary standards. Many of these standards appear unreasonable if subjected to close scrutiny. The system, if left to operate according to the unstated policy, tends to result in a dominance of social control. The evidence also indicates that merely adding more fiscal and organizational resources to the existing system can further the relative dominance of social control over treatment (6, p. 220).

It is beyond the scope of this report to explore the relationship between social control and nonsocial goals in status offender programs. It remains for further research to examine, for example, if court officials use programs as preadjudicatory "testing periods"; if the availability of programs result in "overreach" and the intrusion of the system into the lives of youths that would otherwise have been left alone; of if program personnel themselves use the threat of referral back to the traditional juvenile justice system to ensure client cooperation (79).* The fact that such manipulation is possible, in itself, raises the issue that status offender programs may be operating without sufficient guidelines or control.

CONCLUSION

Summary of Findings

This chapter has attempted to identify trends in the establishment of status offender programs nationwide, to explore the limits of system program performance, and to assess those limits in terms of available theory in the area of delinquency control and treatment. Because of limitations on data collection efforts, arguments have had to proceed largely by analogy, and by the introduction of concepts from other areas of social research, e.g., social welfare and organizational analysis. The findings may be summarized as follows:

1. Program planning takes place in the context of a decision-making hierarchy that includes Congress, the LEAA/OJJDP bureaucracy, juvenile justice agency officials, and representatives from the community and treatment professions.
2. The programs that have been established within the parameters negotiated by these groups appear not to have been aimed at the specific needs of the status offender.

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*See pp. 48, 75, 95, and 137 for examples of such activities in detention alternatives programs for delinquents.

3. Of the programs surveyed, the family crisis intervention and diversion model seems to do the most short-term good and show the least potential for long-term damage.
4. The organizational relationships between system oriented status offender programs and juvenile justice system agencies lack the formal structure that would prevent the abuse of discretionary decision-making and the eventual predominance of the social control function in the programs. Formalization of procedure tends to be resisted, not only by juvenile justice officials, but also by treatment practitioners, to whom it is an impingement on professional authority.
5. Insofar as programs function as appendages of the juvenile justice system, the ultimate goal of returning responsibility for fulfilling the status offender's needs to community institutions will need to be more assertively encouraged.

These findings must, of course, be regarded as preliminary. The data available are generally descriptive in nature, and as such, give no evidence about the effectiveness of status offender programs. The data may be more reliable, however, as artifacts of the decision-making process that establishes and maintains programs. Thus, the information gathered may serve as a useful indicator of the development of the process of "defining" the juvenile and his or her needs.

Planning Needs and National Priorities

On the basis of these preliminary findings, it is impossible to make specific recommendations for planning in the status offender program area. It is possible to make the general suggestion, however--on humanitarian grounds, if no other--that the burden of proof be reversed in the consideration of successful system or program performance. In other words, since the knowledge of status offender needs is so limited, and the juveniles' capabilities for rational decision-making are so untested, perhaps it is time for insisting that planners and agencies who design programs to deliver services to status offenders initially substantiate their approach in grounded theory and evidence derived from other approaches, and subsequently, before continued funding is approved, substantiate their effectiveness and impact by quality evaluations and research.

CHAPTER VI

SUMMARY, ISSUES AND POLICY IMPLICATIONS

INTRODUCTION

Although the current state of knowledge regarding the status offender is limited, policymakers may benefit by a general review of some of the contemporary developments concerning the status offender in the juvenile justice system. With this in view, this chapter consists of two parts. The first part summarizes the chapter by chapter discussion. The second part presents the major issues which emerged from the assessment.

SUMMARY

Socio-Legal Development of the Status Offender Concept

The culture of colonial America viewed the family as the primary agent for the socialization of children. Both the responsibility of the parent to train the child and the responsibility of the child to obey its parents were codified into laws which were the prototypes of modern status offense laws. As the United States experienced structural changes attendant to industrialization--chiefly, urbanization and immigration--the homogeneity of colonial culture gave way to a more varied and highly stratified society. In this context of social change, skepticism began to emerge about the efficacy of traditional agencies of socialization and social control, particularly the family. The establishment of refuges, the juvenile court, and various social welfare programs represent movements by the State to assume the role of surrogate parent, and thus to supplement a family system that was perceived to be seriously weakened by the disintegrative effects of modernization.

At this point, decades upon decades of experiment and experience seem to be leading to an increased conviction on the part of youth policy planners that no system of institutionalized, quasi-legal child regulation can adequately supplant the family as the primary source of nurture and support for the child. Given this conviction, the present thrust of juvenile justice policy development seems to be along two major lines. In the first place, major emphasis is being placed on the creation and protection of the legal rights of children. This can be seen primarily as a recognition that the juvenile justice system has failed adequately to rehabilitate juveniles and, in the process, has violated their rights unnecessarily. In the second place, more emphasis is being placed on strengthening the family itself and in assisting families to become capable of dealing with juvenile misbehavior at its source. The relationships of these two emphases are not always clear; they are even, at times, contradictory. Yet, together, they provide the current catalyst for reform in the juvenile justice system generally and the status offender area in particular.

Current Legislative Activities in the Status Offender Area

A review of Federal and State status offense legislation reveals that widespread variation exists among the many jurisdictions as to both the content and application of juvenile codes dealing with this class of children. While it is true that the variability which results from State sovereignty can be advantageous, it also can produce significant disadvantages, particularly in relation to the application and administration of justice. Because the media and other social mechanisms often help to create and perpetuate images of greater similarity and consensus than actually exist, there is an assumption by many that decisions are based on uniform principles and procedures. Such an assumption is particularly prevalent in the juvenile justice area where the prevailing laws state or imply that the decisions being made are on the basis of what is in the best interests of the child.

A related status offender problem which was identified in this chapter and which must be addressed on the legislative level concerns the allocation of adequate resources to deal effectively with implementation and monitoring needs. The natural tendency of bureaucratic institutions to protect and maintain a favorable status quo, combined with the social, economic, and political inability of children to advocate for their own rights, suggests the need for strong institutionalized incentives for the monitoring and enforcement of legislation directed at protecting the rights and interests of juveniles.

Status Offenders and Juvenile Justice System Processing

Based on available data regarding the processing of status offenders by the juvenile justice system, it appears that status offenders continue to make up a significant proportion of juvenile arrests, intake, and juvenile court caseloads, as well as detention and institutional populations. Although a large number of status offenders are diverted from formal processing at each step in the process, an equally large number are formally processed, detained, and eventually institutionalized.

Status Offenders and Juvenile Justice System Programs

Information on status offender programs is so inadequate that it is impossible to assess the value of the programs. A review of status offender programs indicates generally that program objectives and goals are not stated clearly or in measurable terms. In addition, the means (activities) for accomplishing program objectives and goals are not well defined and thus are not in a form which can be evaluated. Furthermore, few formal evaluations are available to indicate effective approaches due to the fact that those few that were conducted are primarily impressionistic descriptions of activities and accomplishments rather than actual evaluations. Therefore, although a few status offender programs and their approaches appear to offer promise, it is impossible at this time to adequately assess their true effectiveness and value.

DISCUSSION OF THE MAJOR ISSUES AND THEIR POLICY IMPLICATIONS

ISSUE: IN RELATION TO ITS HANDLING OF STATUS OFFENDERS, HOW CAN THE JUVENILE JUSTICE SYSTEM BE EXPECTED SIMULTANEOUSLY TO RESPOND TO THE APPARENTLY CONTRADICTORY ROLES OF AGENT OF SOCIAL CONTROL AND PROTECTOR OF JUVENILE RIGHTS AND NEEDS?

The Emergence of the Issue

A review of the historical development of how the juvenile justice system handles persons who are not considered "delinquents" brings this status offender issue into clearer focus. One begins to realize that the current controversies can be more fully comprehended when the underlying economic, political, and social developments which went into the formulation of present juvenile justice system structures and institutions are considered. The periodic movements for reform have continually reasserted the role of the family as the primary instrument for cultural transmission and socialization, although at times they have inadvertently tended to supplant rather than supplement the family. Therefore, with the evolution of American society into an industrialized world, increasing pressures on family structures, particularly those of the socially and economically deprived classes, have reduced the capacity of the family to act as a stable socializing force. The State, seeking to protect both the broad ranging interests of society as a whole and the individual interests of the child, has attempted to fill this vacuum by assuming the role of surrogate parent vis-a-vis the juvenile court. Emerging from this historical development is the duality of role of the juvenile justice system which in many regards has been counter-productive to the interests of society and the juvenile. On the one hand, in order to meet its mandate to protect the community and control youths (perhaps for their own protection), the system must exert a certain level of coercive control. At the same time, they system is mandated to supplement family authority by serving a nurturing and rehabilitative function.

This paradoxical circumstance has resulted in the institutionalization of a basic ideological conflict between those serving as agents of social control on one hand and those fulfilling the treatment role on the other. This situation raises the issue of whether the juvenile justice system can realistically seek to serve both of these ends. Thus, the basic issue which juvenile justice policymakers must address at this juncture is how , and to what extent , can societal institutions in general, and the juvenile court in particular , be expected to simultaneously respond to the apparently contradictory roles of agent of social control and protector of juvenile rights. This issue has broad implications which question the premises upon which the juvenile justice system operates. Thus, although the effect goes beyond the status offender area, it is within this broader structure that status offender problems arise. To deal effectively with such problems, treatment must be given to the cause and not just the symptoms. Further, despite the trend toward treating delinquents more like adult offenders under the so-called "justice model," status offenders remain susceptible to the inconsistencies and contradictions described above.

Description and Dimensions of the Issue

Traditionally, the rationale in support of juvenile court jurisdiction over status offenders has been that by treating or rehabilitating the nonconforming child the court could infuse values which would guide the child to a law-abiding and productive role in society. Given the contradictory roles of the juvenile justice system, however, the court's ability to serve this function has been drawn into serious question.

Furthermore, some commentators have argued that by involving the status offender in the juvenile justice system at all, the effect is the exact opposite of the intended objective. In other words, it is felt that status offenders are forced into a further penetration of the system than would have occurred if the juvenile justice system had not intervened in the first place. Because of the system's mandate to protect the security and safety of the community, it is seen as incapable of dealing objectively in diagnosing and treating troubled youths.

While the combination of coercive and noncoercive approaches to treatment might be feasible in some therapeutic environments which seek to deal with deviant behavior, it is not compatible with the established rehabilitative approach of the juvenile court. Most of the specific treatment methods available in the present juvenile justice system require some measure of voluntary cooperation. For example, individual counseling, group therapy, academic and vocational training, and family crisis intervention counseling all involve this approach. Yet the realities of juvenile justice system operation have pointed up the incapacity of the system to serve its social control function while at the same time allowing its "clients" the option of voluntary cooperation.

When the U.S. Supreme Court in the 1960s took cognizance of the contradictory character of the juvenile justice system, it seriously questioned the efficacy of juvenile court jurisdiction over status offenders and of the whole nonadversarial model of the juvenile justice system. By so doing, the court finally acknowledged the fact that despite its good intentions, the juvenile justice system was serving primarily as an agent of social control and that its ability to protect the rights and best interests of its clients was wholly inadequate. To counteract this inadequacy and balance the inequities which had been created by the long term institutionalization of the parens patriae doctrine, the court felt it necessary to introduce a series of due process protections for children within the juvenile justice system. It is within this increasingly adversarial context that the juvenile justice system is currently forced to deal with both delinquents and status offenders alike.

Policy Implications of the Issue

In light of the increasing pressures being placed on present institutions to bridge the gap between ideology and practice in handling status offenders, it is clear that policymakers must address the issue of the extent to which various societal institutions can be relied upon to resolve these complex problems.

In so doing, policymakers must take note of one of the major findings that has evolved from this assessment--that, since the inception of the juvenile court, over 75 years of experimentation and experience seem to be leading to an awareness that the family must in fact serve as the primary socializing agent and that societal institutions, regardless of their level of sophistication, will never be able to adequately supplant this role. Against this historical background, the present thrust of policy development and program orientation in the juvenile justice system seems to be following two major themes. On the one hand, major emphasis is being placed upon the protection of the legal rights of children. As noted, this is primarily in response to the failure of the juvenile justice system adequately to provide due process as well as to treat and rehabilitate juveniles in conflict with their families placed under its "protective custody." On the other hand, focus is being placed upon strengthening and enhancing the role and capacity of the family as the primary socializing agent.

Of key significance in relation to the impact of these factors upon status offenders is that the juvenile justice system must continue to clarify and acknowledge the limitations of its capacity to resolve individual behavioral problems of status offender youths. One mechanism which has been suggested for accomplishing this end has been for the juvenile justice system to strip away its rehabilitative treatment dimension and retain only its legal control function. By adopting this so-called "justice model" approach, the juvenile court and related juvenile justice agencies would direct their focus upon juvenile behavior which is in violation of law, thus attempting to emulate the policies and procedures of the adult criminal courts. Presumably, the intervention and treatment functions would then be delegated to social service agencies which would deal with youth and their families in a totally noncoercive environment. Their legislative mandate would be separate and apart from any coercive control function.

To state whether this approach or another approach would be most appropriate in defining the proper role for societal institutions in dealing with juvenile deviance is beyond the purview of this report. It is clear, however, that many of the difficulties which juvenile justice system policymakers face today derive from the overwhelming (and, in many cases, totally unrealistic) expectations that have been placed upon the juvenile justice system. As has been the case with many other institutions in our society, many of the founders of the juvenile justice system assumed that they could provide a panacea for the problems which they were seeking to resolve. In establishing and justifying reform, they often convinced themselves, as well as much of the rest of society, that they would have the means to accomplish this. Juvenile justice policymakers today now face the unpleasant yet imperative task of defining institutional limitations and reeducating society as to what individuals can pragmatically expect from government in solving status offender problems, as well as defining what responsibilities they must assume as communities and individuals.

ISSUE: WHAT ARE THE OBSTACLES THAT HINDER THE CREATION OF A UNIFORM AND COMPREHENSIVE APPROACH TO DEAL WITH THE DEVELOPMENT AND IMPLEMENTATION OF STATUS OFFENDER LEGISLATION AND HOW CAN THEY BE OVERCOME?

The Emergence of the Issue

Current legislative activity shows that dealing with nondelinquent "adolescent misbehavior" is perceived as an important issue by most States. Status offender legislation, however, has been mainly cosmetic or piecemeal, or both. The content of status offender legislation, as well as the failure of many States to provide adequate resources for implementation, has doomed many legislative programs from their inception. Further, the external pressures of continuous economic and social upheaval within society (e.g., divorce, single parent families, youth unemployment, women's liberation) have subtly but powerfully overshadowed efforts to modify the manner in which status offenders are handled.

In adopting the philosophy of deinstitutionalization and diversion, the Congress has sought to more clearly define the role of the juvenile justice system in relation to various clients (with a particular emphasis on status offenders), and has recognized the need for a more uniform approach to policy development which would protect both society's interests and the legal rights of children. Congress has substantiated its commitment to this philosophy with the infusion of millions of new Federal dollars into the area of programs for youths at the State and local level that are tied to sanctions for compliance with Federal law. Still, as has been noted previously, in spite of these efforts, many obstacles to solving status offender problems continue to exist and will not be solved by increased financial resources alone.

In light of this fact, and in order to understand its implications for future policy development in the status offender area, legislative policymakers at all levels of government could benefit by comprehending the major obstacles that tend to hinder the creation of a uniform and comprehensive legislative policy and its implementation.

Of course, a thorough analysis of this question is far beyond the scope of the present discussion. Nevertheless, the findings of this preliminary assessment have revealed the existence of at least four major obstacles which hinder legislative policy development and implementation.

Description and Dimensions of the Issue

Lack of Consensus as to Approach

The juvenile justice system is confronted continuously with a contradictory mandate to both assist the individual juvenile and protect his or her rights, while at the same time protecting the community from misbehaving youths. These dichotomous roles of socializing agent and coercive control agent which the juvenile justice system is asked to serve are not often completely understood or appreciated in terms of their contradictory ramifications in meeting the needs of the system, the juvenile, and the expectations of society. This situation most certainly applies to the status offender area where the policymaker is continuously barraged with conflicting views.

This factor combined with the geographic and demographic heterogeneity of the country and the diverse social, economic, and political interests which are represented within the various States, creates a major obstacle to progressive status offender legislation.

Tensions Created Between Juvenile Justice Agencies and Resultant Problems in Policy Formulation

Related to the absence of agreement as to approach is the problem which policymakers face in attempting to coordinate and integrate the widely divergent agencies which make up the juvenile justice system. Police, courts, probation and social welfare departments, State correctional agencies, and community programs for youths each have somewhat different roles, goals, and objectives in relation to their handling of status offenders. There is often a conflict between them since one may be pursuing ends which are seen as contravening the interests of the other.

For example, where States have sought to deinstitutionalize status offenders on a large scale, there has often been a discernible pattern of reaction on the part of law enforcement agencies and juvenile courts which ranges from skepticism to adamant opposition. This reaction seems natural when deinstitutionalization of status offenders is perceived as potentially upsetting the status quo of such institutions, diluting their jurisdictional authority, and eliminating staff jobs. On the other hand, human resource/child welfare type agencies as well as community treatment agencies may tend to view deinstitutionalization of status offenders more favorably since it can be viewed as reenforcing their own philosophical position, while at the same time increasing their client population, budget, and staff.

The result of these underlying competing philosophical, economic, and political interests often has been that legislators are placed in a middleman role of brokering out the various pieces of the status offender pie based more on political pragmatism than sound policy considerations. Legislators rely to a great extent on information provided by various interest groups and constituents; therefore, they are in many instances unduly influenced in their decision-making by a particular interest group within the juvenile justice system without realizing that they are dealing with only part of a much larger system. Since there is generally not a well organized or well funded constituency for children's interests in most States, legislative programs in this area often tend to be based more upon perceptions of justice "system" personnel than upon other views of families, juveniles, and child development agencies.

Bureaucratic Manipulation by Juvenile Justice System Agencies

A related difficulty is bureaucratic manipulation of status offender legislation. Responses to such legislation may range from bureaucratic inefficiency to overt use of bureaucratic procedure to sabotage a particular program. Evidence of possible bureaucratic manipulation was identified during the course of the present assessment. It ranged from situations where status offenders were being held in maximum security isolation in order to comply with separation requirements of legislation to instances where police were intentionally ignoring citizen complaints regarding status offense behavior problems in order to induce pressure on legislators to reinstitute their authority to arrest and hold such youths in secure detention facilities.

Because many legislative approaches to status offender problems at the State level have lacked adequate monitoring and enforcement provisions to cope with this reality, even innovative advances which become law may remain on the books but never make it into practice. Worse yet, what often happens is that the programs are deemed failures for reasons unrelated to their conceptual or practical value.

Overall Lack of Knowledge and Inadequacy of Juvenile Justice System Information Systems

The general absence, inadequacy, or unreliability of substantive information about the characteristics of status offenders, their actual numbers, their uniqueness in relationship to delinquents, and their handling by the juvenile justice system has been a theme running through this entire report. This factor compounds the difficulties which have been discussed above and complicates the task of legislative policymaking all the more. Because many of the information systems presently operating in the juvenile justice system are designed more to suit administrative needs, they tend not to be compatible with and sensitive to research, planning, and policymaking requirements. Further, the differences in State statutes applying the status offender label, variations in local practice, and the dynamic nature of the status offender phenomenon nationally inhibit uniform data collection processes and procedures.

Implications of These Obstacles for Future Policy Development

Lack of Consensus of Approach

It is clear that a resolution of this factor will be important to any ultimate solution of the status offender problem in the context of future policy development. Some commentators have argued that the absence of sound empirical data on the status offender precludes the possibility of consensus. The answer to this point, however, lies in the legislative intent behind the 1974 Juvenile Justice and Delinquency Prevention Act (as amended). There, Congress made clear that it is not the extent of the problem nor the juvenile justice system's present capacity to deal with status offenders that should dictate policy; rather, it is the moral repugnance of taking away family control and responsibility as well as the incarceration of young persons who have not committed crimes which must be the overriding consideration in structuring a solution. If this focus can be kept in mind, future efforts of States to develop comprehensive programs to deal with status offense youths will be able to meet the unique and specific jurisdictional needs which they face, while at the same time assisting in the evolution of a basic "national youth policy" for the treatment of status offenders.

Tensions Created Between Juvenile Justice Agencies and Resultant Problems in Policy Formulation

The key point for policymakers to realize in relation to this complex factor is the extent to which their information resources are affected and in many cases limited or distorted by the fact that special interests within the juvenile justice system will seek to influence policy to suit their own interests. In many regards, this can be interpreted as an understandable if not legitimate posture for bureaucratic institutions to take. Nevertheless, its potential negative impact on effective policy development of criminal and juvenile legislation generally, and status offender legislation in particular, is critical.

Since it is unrealistic to expect to reverse the whole process of institutional self-interest seeking, the most reasonable alternative for policymakers seems to be to build in some of their own checks and balances. They should carefully consider and analyze the interests underlying a particular proposed program in the status offender area and make certain to ascertain the complete implications of the proposed course of action for both the juveniles involved and the juvenile justice system. Further, because of the general absence of an institutionalized constituency to advocate for juveniles' interests at State decision-making levels, it seems wise for policymakers to encourage and support the loose-knit grassroots efforts that presently serve in this capacity in order to ensure the presentation of a more balanced picture to decision-makers and to the public alike. It is necessary that the community keep pace with the laws so that institutions can receive the necessary support and direction they need to carry out their legislative mandates. Thus, public education through youth advocacy can play a critical role for the policymaker in successfully implementing status offender policy.

Bureaucratic Manipulation by Juvenile Justice System Agencies

The policy implications of this obstacle to effective status offense legislation are far-reaching. The fact that juvenile justice institutions (which have been established to serve human needs and solve human problems) can become so independent of public policy that they can produce results which serve their own purposes rather than the intended objectives of the policy itself, indicates the seriousness of maintaining control over policy implementation.

As has been experienced in virtually every related realm of government activity in the past, the essential ingredient for ensuring against such manipulation is effective monitoring systems to ensure proper and efficient implementation of stated policies and programs. This has been recognized by Federal and State planners in the juvenile justice field both as a crucial area of concern and one which presents some of the most difficult problems in terms of logistics and costs.

As has been pointed out, this area has been one of the weakest links of the Federal and State legislative efforts as well as in the program development area of status offender policy, definitions, classification systems, methods for assessment of pilot projects, and methods for monitoring. These are all areas where adequate criteria for local, State, and Federal monitors have yet to be developed and refined. Though this is a significant change, further operationalizing the monitoring function throughout the juvenile justice system will determine the ultimate success of legislative efforts in the area of status offender policy.

Overall Lack of Knowledge About Status Offenders and Inadequacy of Juvenile Justice System Information Systems

In terms of its implications for legislative policy development in the status offender area, the absence of adequate information and the inadequacy of juvenile justice system information collection systems generally has had, and will continue to have, a tremendously draining impact upon efforts towards progressive reform. Unless and until policymakers can gain control over this problem of inadequate knowledge, they will be locked into a posture of trial and error and reactive management of status offender problems and will be unable to develop the comprehensive overview and uniform approach that is so critical to successful policy development and implementation.

ISSUE: WHAT IS THE SIGNIFICANCE FOR PRESENT AND FUTURE POLICY THAT INFORMATION ON THE PROCESSING OF STATUS OFFENDERS BY THE JUVENILE JUSTICE SYSTEM IS CURRENTLY SO INCONCLUSIVE THAT IT IS IMPOSSIBLE TO KNOW WHO STATUS OFFENDERS ARE AND HOW THEY ARE BEING HANDLED OR TO ASSESS THE IMPACT OF FEDERAL AND STATE STATUS OFFENDER LEGISLATION?

The Emergence of the Issue, Its Descriptions and Dimensions

Statistical and descriptive information on the characteristics and needs of status offenders and their processing by the juvenile justice system is extremely limited. The significance of this limitation becomes obvious when policymakers attempt to determine appropriate policy and examine the impact of that policy on the problem. In addition to not having an adequate basis upon which to determine and evaluate policy, the lack of reliable information could lead to erroneous assumptions and misappropriation of resources.

In order to present an assessment of this problem, the deficiencies of information will be discussed as they relate to determining the extent of the problem and the characteristics and needs of status offenders. Following an assessment of the information, a discussion of the implications of these issues for status offender policy will be presented.

National Data on the Status Offender and the Juvenile Justice System

National data on status offenders and their processing by the juvenile justice system can be found in sources such as the Uniform Crime Reports produced annually by the Federal Bureau of Investigation and the Children in Custody reports distributed by LEAA.

The UCR data are limited to arrests reported by the police for the year. Two categories of the data are somewhat useful in determining the extent of the status offender problem: arrests reported for curfew/loitering and runaway; however, loitering is not a status offense in most jurisdictions. The other types of status offenses such as ungovernability, truancy, and alcohol possession are not included in the UCR. Therefore, the UCR data can provide only a very general idea of the extent of the problem nationally. According to statistical data for 1975, status offenders accounted for 15% of all juvenile arrests cleared by police. Considering this percentage relative to prior years, it appears that, since 1973, the proportion of status offenses to other juvenile arrests decreased 9%, while delinquent and misdemeanor arrests have increased 14%. There are numerous problems with interpreting this data as indicative of a downward trend reflective of the status offense situation since it includes only two types of status offenses and is limited to arrests reported. It may be more an indication of police arrest activities than the actual extent of the problem.

The Children in Custody reports present statistical data on the detention and incarceration of juveniles in public and private facilities in the U.S. for the year. There are many difficulties in using this information for assessing the extent to which status offenders are detained or incarcerated. According to the 1975 report, 4,494 cases referred to as PINS (Persons In Need of Supervision) were detained in public detention or correctional facilities and 4,316 were detained in private facilities. The "PINS" category is not exclusively used for status offenders. Many juveniles convicted of a felony or a misdemeanor are included under PINS. Therefore, all PINS cases are not status offenders, nor are all status offense cases PINS. Some jurisdictions may also report status offense cases under the dependent child or delinquents category.

National information on the activities of the juvenile court in relation to status offenders is extremely limited. The National Center for Juvenile Justice collects data on cases referred and processed by the juvenile court for 13 States and jurisdictions. This data includes status offenses such as running away, truancy, ungovernable behavior, and other types of status (as a category); however, it omits status offenders diverted or referred to other agencies prior to formal court referral. This is a serious omission considering the volume of status offense cases handled informally or diverted by the juvenile court to public and private agencies.

The result of the limitations of the UCR, Children in Custody reports, and the National Center for Juvenile Justice statistical data is that it is not presently possible to assess statistically the national extent of the status offender problem.

State and Local Jurisdictional Data on the Status Offender and the Juvenile Justice System

Statistical information on the processing of status offenders at the State and local jurisdictional levels varies greatly in terms of quality, scope, and reliability. Information on the arrest of status offenders appears to be the most widely available type of data. The collection of arrest data is probably carried out in conjunction with the agencies' periodic reports to the FBI. Few States or jurisdictions gather the more basic demographic types of data such as the characteristics of juveniles arrested and their needs. Those that do collect demographic data limit it to the arrest point in the process. Information on the other points in the process is less available. The difficulty with using arrest data is that it is only a partial picture of the dimensions of the problem and at worst may be misleading.

One of the most important points in the juvenile justice system process is juvenile court intake. It is at intake that complaints are received either from the police, parents, relatives, citizens, or other community agencies. The decision to accept custody, to dismiss, to refer to court (formally), or to handle the case informally by referring the case to the appropriate community agency is also often made at intake. In addition, in many jurisdictions, the initial detention decision is made by an intake officer and then is reviewed later by a judge. Generally, data reflecting the many important decisions and activities of the intake stage of the process are scarce. This deficiency becomes significant when considered along with the finding that, in many jurisdictions, a well formulated written policy for intake decision-making is not available. The result of not having useful data reflecting the types of decisions and activities of the intake process, as well as the lack of formal written policy, is that extensive abuses of discretion or inappropriate decisions may occur and be hidden from review by administrators or policymakers.

From what information is available, it appears that generally 50% of the status offense cases referred to intake are closed by the intake officer; however, information is not available regarding which type of cases are closed or whether community services are provided to these juveniles by agencies outside the juvenile justice system. According to 1976 California data, 84% of the cases referred to intake are referred by law enforcement agencies. Approximately 30% of the cases are formally petitioned to juvenile court for a hearing before a judge. The remaining cases are either handled informally by the intake officer or dismissed. Since less than a third of the cases referred to intake are eventually petitioned to court, the question arises whether there is a lack of understanding of which cases should be referred to intake among law enforcement officers and court officials. The impact of formal processing of status offenders on recidivism is uncertain, although it is accepted that it might have negative effects upon the juvenile. Therefore, in addition to the waste of valuable police and intake resources, formal processing may result in unnecessary frustration and friction between officers of the court and law enforcement officers, as well as increase the opportunity of doing harm to the juvenile.

The decision to detain a status offender is also an important decision made by intake. Limited information on this decision indicates that generally 40% of the status offenders are detained at intake. This finding, when compared to that for delinquent referrals, indicates that status offenders are more likely to be detained than delinquents. Many status offenders are detained for relatively short periods of time. This may be partially explained by the finding that approximately 60% of the detained status offenders are charged as runaways. The major point which emerges from this information is that status offenders have a higher probability of being detained than other juveniles; however, a description of the extent of the detention or the reasons for its wide usage is not available.

As mentioned earlier, 30% of the status offender cases referred to intake are referred to juvenile court. This accounts for approximately 20-25% of the court's formal hearings. The information available on the outcomes of these cases indicates that about one-third of the status offender cases heard by the court are dismissed, and approximately 20-40% are placed on probation. The remaining cases are disposed of informally or referred to courts in other jurisdictions. It is also important to note that approximately 45% of the status offense cases heard in juvenile court are runaways. Most of these cases are disposed of by the juvenile being released to his/her parents without the further involvement of the court.

Considering the significant proportion of runaway status offense cases as evidenced by the proportion of runaways arrested by the police, referred to intake, detained and heard by the juvenile court, and the high probability that the case will result in the juvenile being released to the parents, it appears that if runaway cases were handled alternatively by an agency outside the juvenile justice system, a large portion of the status offender caseload would be eliminated from the juvenile justice system. Unfortunately, many aspects and dimensions of the complex runaway problem remain unclear, especially those related to juveniles crossing State borders.

Information on the Characteristics and Needs of Status Offenders

In addition to the demographic breakdowns of the data at each point in the process as discussed above, a few studies on status offenders have provided some information on the characteristics of juveniles charged with status offenses. According to one self-report study, 95% of all adolescents engage in at least one status violation, while 12% report an extensive history of status offense behavior. Although most adolescents engaging in status offense behavior are not charged with a status offense, it was found that as the history of status offense behavior increased, the likelihood the juvenile will commit a serious form of delinquency increases. This finding does not directly indicate that status offense behavior leads to serious delinquency. It does suggest that the frequency of status violations correlates with future forms of serious delinquency.

Another study found that status offenders appearing in juvenile court tend to resemble delinquents at that point in the process in terms of their characteristics and prior violation history. Considering that approximately 75% of the status offenders referred to court are determined not to be serious enough to result in a formal disposition, it may be that approximately 25% of cases that are petitioned and heard have been selected out as the more serious cases either based upon their frequency of violation or the particular needs of the juvenile. Therefore, available information cannot adequately distinguish status offenders from other juveniles or delinquents on the basis of characteristics and needs and therefore enable policymakers to translate this information into constructive policy for determining processing decisions and the development of specific programs to meet status offender needs. One possible factor which may be influencing the lack of differentiation may be that the significance of the status offender label as a distinct category is more a legal or administrative convenience than a true description of a distinct group of juveniles in terms of characteristics or needs.

Policy Implications of the Issue

The general lack of reliable and useful information on the processing of status offenders, their needs, and characteristics both on a Federal and State level is a serious handicap to policymakers at all levels and points in the process. Policymakers, knowing neither the extent of the problem nor its dimensions, are placed in the difficult position of having to define policy and develop programs, as well as allocate resources, without a clear idea of the nature of the problem. This deficiency is extremely significant. For example, if the majority of status offenders are runaways who enter the juvenile justice system for relatively short periods of time, it might be more effective to direct resources at stabilizing the family and providing emergency shelter care facilities in the community rather than building detention or long-term shelter facilities with intensive counseling components. Also, if

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the likelihood of status offenders becoming delinquents is small, perhaps the emphasis of status offender programs should be directed toward protecting these juveniles from the negative influences of the juvenile justice system and dangers of the "street" rather than upon facilitating arrest and subsequent formal processing.

One finding that seems to emerge is that some juveniles charged with status offenses are often handled more severely, detained more often and for longer periods of time than delinquents. Such treatment may be a result of unintended consequences due to inappropriate attempts of juvenile justice system personnel to reduce the potential harm to these juveniles (e.g., runaways being victimized) rather than a formal policy to treat status offenders severely. Whatever the reason, many administrators are faced with few alternatives and must rely upon formal processing in order to provide any service. For example, since runaways are often victims of crimes such as sexual assault, rape, and prostitution schemes, they may be placed into detention to protect them from these and other dangers until they can be released to their parents. Also, in many instances the period of detention may be rather long as a result of runaways being arrested great distances from their homes and the time involved in arranging for their safe return.

On the other hand, the existence of severe treatment of status offenders in some jurisdictions is aggravated by a small group of status offenders who continue to recidivate regardless of the manner in which they are handled. As mentioned earlier, the increase in the frequency of status offenses may be a fairly good indication that the juvenile will eventually commit a serious delinquency. The problem for many juvenile justice administrators is how to prevent the commission of serious forms of delinquency by the "hard to reach" repeating status offender. Legislation in some states has provided a means to deal with this problem by passing juvenile statutes which allow for the charging of a delinquency against a juvenile who continues to recidivate as a status offender. If it can be substantiated that the hard to reach status offender is a significant problem, special programs can be developed which have a greater control dimension than other status offender programs and which can meet the special needs of this group of status offenders. The availability of these programs may reduce the need to relabel status offenders as delinquents.

In summary, a review of the information available to policymakers and administrators concerned with the status offender problem has shown that they are operating under the extreme handicap of not having sufficient information upon which to base their policy or determine their decisions, as well as having few alternatives to which they can turn. The result is that policy tends to emphasize the reduction of the negative factors of processing, rather than being directed toward taking positive steps to effectively meet the needs of status offenders or provide the juvenile justice system with a multitude of effective alternatives to formal processing.

ISSUE: WHAT IS THE SIGNIFICANCE FOR PRESENT AND FUTURE POLICY THAT THE STATE OF KNOWLEDGE REGARDING THE OPERATIONS AND IMPACT OF SYSTEM STATUS OFFENDER PROGRAMS IS SO DEFICIENT THAT IT IS IMPOSSIBLE TO ASSESS THEIR EFFECTIVENESS IN TERMS OF PROVIDING FOR THE NEEDS OF STATUS OFFENDERS OR THE COMMUNITY?

The Emergence of the Issue, Its Description and Dimensions

The overriding issue that emerged from the assessment of status offender programs is simply that too little is known about the programs--about their origins, operations or outcomes--to determine their overall effectiveness. The section that follows pursues the implications of this issue at the practical level of program operations, as well as implications for policymakers at Federal, State, and local levels.

The general issue of lack of knowledge about status offender programs may usefully be divided into three sub-issues, each corresponding to areas of information vital to policymaking. Programs surveyed for this analysis tended to show, first, a lack of clearly stated goals; second, a lack of well-articulated means; and third, a lack of any means by which to monitor or assess program performance. These points will be discussed in turn.

Goals: Program descriptions, as well as the few evaluations that were reviewed, tended to be based neither on any discernible theoretical position nor on an empirical assessment of status offender needs. Moreover, programs tended to be ambiguously named, and program types were difficult to distinguish. In most cases, programs claimed merit on the grounds that they reduced the harm that could be caused to the juvenile by formal juvenile justice system processing, and not on the grounds that they offered any clear rehabilitative benefits.

Means: In programs where treatment goals are unclear or the clients' needs are unknown--which includes virtually all the programs encountered--methods of treatment and rehabilitation are at the outset aimless. A general tendency was discovered for statements of method to degenerate into mere descriptions of the conditions of custody. Finally, in those few cases where goals were stated and some method was proposed, the suitability of the method was justified on the basis of assumptions, unverified by empirical research.

Evaluation: Given the above, it is not surprising that good status offender program evaluations were almost entirely unavailable. In the absence of any needs assessment, it is impossible to determine whether program goals are suited to the clients' needs. In the absence of clear goals and a well-formulated program design, it is impossible to determine whether a program is fulfilling its stated goals. In the absence of a clear statement of program content (including, for example, referral criteria and style of treatment), it is impossible to evaluate the program's treatment method.

The lack of clear goals, appropriate means, and reliable evaluations has several implications for the practical effectiveness if of the programs. These implications may be summarized, first, in terms of the availability of services, and their effectiveness and when they are delivered.

The ability of programs to plan rationally for service needs is called into question by the finding that purported knowledge about the general needs of status offenders is based more on unverified assumptions than data. Moreover, the assumptions themselves often seemed to reflect the institutional attachments of program personnel more than any coherent theory, however poorly verified. Particularly for programs administered from within the juvenile justice system, a lack of clear orientation toward client needs may permit the program to veer dangerously from treatment to coercion, surveillance and social control.

One such assumption is that status offenders are in some important sense different from youth in general, and from delinquents in particular. This assumption is unsupported by available data. In practice, however, it may lead to the inappropriate and discriminatory labeling of a segment of youths whose behavior does not differ significantly from that of youths at large. At the same time, it may accelerate the extension of informal and discretionary social control over juveniles who would, if accused of a delinquent act, have recourse to legal remedies.

A converse assumption is that status offenders themselves constitute a homogenous group. This assumption underlies the creation of individual programs, each aimed at the presumed problems underlying the variety of status offense violations. Two types of problems may thus be encountered. First, the assumption of homogeneity may lead the program to ignore individual differences among status offenders accused of the same offense. Second, the program might overlook common problems that could well manifest themselves in several different kinds of offense behavior. To cite a common example, a female runaway may not have the same reasons for leaving home as a male runaway; she may, indeed, be responding to a situation that would motivate other youths to incorrigible behavior in the home and perhaps others to more serious delinquent behavior. A program which accepts offense-as-charged as its most potent diagnostic classification is unnecessarily limited in its flexibility.

At another level, the lack of information about status offender programs prevents the policymaker from discovering whether the proffered services are in fact delivered, and if they are delivered, how effective they are. The programs surveyed in this study exhibited an almost universal failure to collect and analyze data on program components and to evaluate the availability, appropriateness, and effectiveness of programs rather than relying exclusively upon recidivism rates as an indication of the program's success. Still more examined the program's effect on recidivism in the jurisdiction as a whole. Finally, several evaluations were content merely to gauge the program's impact on local detention and incarceration rates--thus judging the program, not in terms of its effect on clients, but in terms of its ability to shoulder part of the client load from the juvenile justice system.

The programs examined showed a general lack of formal, standardized diagnosis and referral criteria. Thus, there is inadequate check on the coordination of independent service-delivery systems and inadequate check on whether individual components are delivering services effectively. In short, programs operate in ignorance of the needs of status offenders; they lack criteria either for discovering those needs or making appropriate referrals; and they lack mechanisms for holding service contractors accountable. These shortcomings signify not only administrative inadequacy, but serious potential for abuse of discretionary authority.

In the first place, there is currently an unexamined potential for coercion in programs which are formally a part of the juvenile justice system. Thus, docile cooperation in a program may be viewed by the client as the price paid for not being formally petitioned to juvenile court. In a related sense, there is a potential for inadequately regulated status offender programs to provide a vehicle for system "overreach," and thus provide a means for the extension of social control over juveniles and families that would not otherwise be allowed. Finally, the increased influence, as a result of available financial resources, upon treatment professionals to develop delinquency prevention programs, suggests the possibility that the recent proliferation of status offender programs may be more the product of entrepreneurism on the part of these professionals than of any ability to articulate rationally therapeutic methods and goals.

Policy Implications of the Issue

The discussion thus far has summarized the important issues that emerged from the analysis of status offender programs. At the root of all these issues is a general lack of knowledge about societal expectations, family role, the characteristics of program clientele, the functioning of the juvenile justice system, and the nature and outcomes of system status offender programs. This section will discuss the implications of this state of ignorance for policymaking in the program area.

The first and most conspicuous implication is that a lack of needs-assessments for the status offender population severely cripples the policymaker's ability to plan rationally for the delivery of services. When so little is known about the status offender, it is impossible to know toward what goals the program should be directed, as well as to know the best means for achieving those goals.

Current policy in this area appears to be made partly on unverified assumptions, and partly by default. Congressional recommendations, as manifest in the 1974 Act, were based largely upon the recommendations of experts in the field, and had to be formulated in a manner sufficiently general to apply to many diverse local circumstances. The Office of Juvenile Justice and Delinquency Prevention and State units charged with the operationalization of Congressional policy are likewise hampered by a lack of knowledge about the target population. Local policymakers may benefit by their superior vantage point on immediate community problems, yet it is apparent that their planning efforts could be more effective over the long term if they were given the benefit of broader, more empirically based knowledge about the needs of status offenders.

Second, a lack of knowledge about program performance impedes the policymaker's ability to control the program, to monitor its effectiveness, or to hold programs accountable for the delivery of services. Where the needs of status offenders are unknown, program goals may be unclear or in conflict. Where program goals are unclear, it is impossible to evaluate the effectiveness of treatment methods. When goals are in conflict, no clear criteria exist to decide which program is appropriate to a given situation. At the Federal and State levels, then, efforts to define well-supported and desirable program approaches are confounded. At the local level, the policymaker must remain unaware of both the successes and failures encountered in other communities.

The third implication to be drawn arises from a lack of data on the functioning of the juvenile justice system. When so little is known about the status offender or the functioning of the system, it is difficult to judge the proper context for the status offender program. It is difficult to predict, for example, the response of police, probation and court agencies to programs which require their cooperation. At both State and local levels, program decisions may well require a reallocation of resources--a de-emphasis for example, of programs for serious juvenile offenders in favor of programs for status offenders. A lack of knowledge about the extent of the status offender problem, and of the possible unintended consequences of a change in priorities for the behavior of the system, makes an assessment of program impact--either in terms of cost/benefit analysis or more qualitative impact on the operation of the juvenile justice system--impossible to gauge.

CONCLUSION

The dynamic nature and complexity of the effort to implement a national youth policy in the status offender area has been evidenced throughout the course of this assessment. The political, logistical and definitional problems inherent in such an undertaking will continue to require flexible and innovative approaches on the part of policymakers. This report has endeavored to provide such policymakers with a better capacity to comprehend the current issues and provide insight regarding information in the status offender area. Since the current state of knowledge is limited, however, the tentative nature of the findings presented here needs to be acknowledged.

The preliminary evidence indicates that the following issues concerning the juvenile status offender will require further attention if continued progress is to be made:

- conflicting philosophy and goals regarding the function and responsibility of juvenile justice agencies
- the role of the juvenile court within the State judicial system and its implications for regulations, policies, and procedures affecting juveniles
- the impact of legislative changes upon the police, the courts, community services, as well as juveniles and their families
- the impact of State legislative changes upon public and private funding
- potential conflicts between Federal, State, and local governments regarding strategies for dealing with the problems
- development of approaches which will reduce system resistance to change
- the need for more reliable and comprehensive information regarding juvenile justice system processing of status offenders and efforts to meet their needs
- the need for a national youth and family policy to set a framework for further progress in the status offender area.

The challenge to policymakers and administrators to solve the problems of conflicting roles, constraints, and information gaps regarding the needs and problems of status offenders remains massive. A continued commitment toward working together at the Federal, State, and local levels is required to creatively meet society's obligation to both the community and the individual who is supposedly involved in a juvenile status offense.

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APPENDIX A

NATIONAL JUVENILE JUSTICE SYSTEM ASSESSMENT CENTER

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APPENDIX B
METHODOLOGY

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METHODOLOGY

SCOPE AND DEFINITIONS

The objective of this assessment is an exploration of available information on the handling of status offenders by the juvenile justice system, and a discussion of that information in terms of selected issue areas, including the process itself, legislation and programs. At the outset of this assessment, the current national state of knowledge on status offenders was largely uncharted territory. The assessment itself was part of an ongoing effort at design: the scope of the report was defined partly by the choice of available methods, and the methodology evolved as a result of the availability of data and subsequent adjustments to the research design. A workable level of controlled ambiguity in the research process was maintained; rather than predefining the report and perhaps thereby arbitrarily excluding important issues and concepts, the attempt was made to stay open to questions and views on the status offender that emerged from the field as the research progressed.

The definition of operational concepts is central to the methodology. A discussion of some key concepts will be presented at the outset because these concepts establish clear limits, not only upon the methodology but on the report as a whole. These definitions will be followed by a discussion of the data gathering efforts.

Definition of Major Terms

In light of the many differing categorical approaches which researchers in the juvenile justice field have taken, and considering the proliferation of new terminology which is currently being experienced, the following definitions were utilized for the purposes of this assessment:

- Juvenile: A person on whom jurisdiction is established as a youth in trouble by a unit of the juvenile justice system at the Federal, State, or general local government level (70).
- Status offender: A juvenile who becomes involved with the juvenile justice system because of behavior which would not be criminal for an adult (90).
- Juvenile delinquency program: Any program or activity--Federal, State, or local--related to juvenile delinquency prevention, control, diversion, treatment, rehabilitation, planning, education, training, and research, including drug and alcohol abuse programs and the improvement of the juvenile justice system (70).
- Juvenile justice process: The network of major steps or decision points for the handling of a juvenile in a juvenile delinquency program by a public agency (70).
- Juvenile justice system: The organization of interacting and interdependent statutory police, court, and correctional agencies who handle juveniles in a juvenile delinquency program or juvenile justice process (70).

DATA GATHERING

Three main strategies were employed in gathering information for this report: mail surveys were conducted of planning agencies and programs; specialized sources of statistical data were consulted; and an extensive literature search was carried out.

Surveys

The goal of presenting a national picture of the handling of status offenders dictated the choice of States as the primary unit of analysis. Given this, the first decision to be made was how the States should be sampled. On the one hand, reliable data were sought; on the other, it was felt that to exclude States from the discussion because they lacked adequate statistical information would introduce unreasonable bias into the discussion.

In order to maximize the input of data, information was requested from State planning agencies in 50 States, the District of Columbia, and Puerto Rico. There were three components to this request, including:

- statistical data on the handling of status offenders by police, courts and correctional agencies, and on the characteristics of status offenders (a detailed--and admittedly ideal--list of data elements was included)
- copies of current and pending legislation concerning status offenders
- a list of all status offender programs currently operating in the State plus all available program descriptions and evaluations.

The initial mailing, which took place on July 12, 1977, was supplemented by two follow-up mailings and many telephone calls to States that had not responded.

As deficiencies in the data available at the State level began to emerge, two supplemental surveys were carried out. The first was a survey of 41 cities and counties which, according to information provided by the Search Group, Inc., maintain automated information systems in some components of the juvenile justice system. The second mailing, aimed at securing court data and program information, was to probation directors in 20 States.

The responses to the requests were most disappointing. It appears, however, that this is not because of a lack of effort nor a lack of cooperation on the part of the respondents. The wealth of correspondence and numerous telephone conversations indicate that adequate data on the handling of status offenders simply are not collected. This is probably one of the most significant findings of the research. Specific data problems are discussed in the individual chapters of the report text.

An entirely separate survey was conducted of 200 status offender programs. Program names and addresses were gathered from three sources. The first is the Law Enforcement Assistance Administration

Profile printout, the second is the information received from the State planning agencies and jurisdictions, and the third is the program listing from the Federal Interagency Panel for Early Childhood and Adolescence.

The program survey was designed to permit a discussion in qualitative terms regarding the types of programs available and their emphases rather than a definitive quantitative picture of the number of programs, their client caseload, or their outcomes. Programs were thus chosen according to their apparent fit within assessment criteria for juvenile justice system programs for status offenders.

Three kinds of information from the 200 programs sampled were requested:

- A completed survey form, designed to clarify whether the program lay within the criteria and to provide basic structural information.
- A detailed program description, including information on activities, finances and staff.
- A copy of the program's most recent evaluation, including the name and address of the evaluator.

Because in many cases only the survey form was returned, a second mailing was conducted requesting specific information from interesting programs, as well as follow-up phone calls in many cases. A summary of the number surveyed and their responses for each of the surveys is presented in figure 21 (p. 199).

Specialized Statistical Data

Data requests from State planning agencies and jurisdictions were supplemented by the investigation of four additional sources of statistics. The most valuable source was the California Bureau of Criminal Statistics. The Bureau of Criminal Statistics is a State agency responsible for the collection of police, probation and court statistics. The Bureau was extremely helpful in structuring the State planning agency data request, and in making a special computer run of information on the handling of status offenders in California.

FIGURE 21

SUMMARY OF SURVEYS

SURVEY TYPE	TARGET POPULATION	NUMBER SENT	NUMBER RECEIVED	% RETURNED
SURVEY A	STATE PLANNING AGENCIES	52	48	91
SURVEY B	LOCAL JURISDICTIONS	66	30	45
SURVEY C	COURT AND/OR PROBATION ADMINISTRATORS	20	9	45
SURVEY D	STATUS OFFENDER PROGRAM DIRECTORS	200	120	60

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A second source of data was the Federal Bureau of Investigation (FBI) Uniform Crime Reports (UCR). The annual UCR documents, despite their limitations in the specific area of status offenses, present the most comprehensive national data available on juvenile arrests.

Two potential sources of data remain to be mentioned: Children in Custody and the National Center for Juvenile Justice's Juvenile Court Statistics and State Profile Questionnaire. None of these sources were very useful because they did not handle data on status offenders in sufficient detail. The limitations on all sources of statistical data will be discussed more thoroughly in the appropriate chapter in the text.

Literature Search

The literature search, like the assessment as a whole, had two objectives: first, to give a state-of-the-art view of current thought and practice in the handling of status offenders; and second, to provide an information base that would be useful to the research. This meant, in practical terms, that every piece of literature identified that was remotely connected with status offenders was collected. The literature search will be discussed first with a summary of the reference sources used, and second, with an assessment of the types of literature that became available.

The important reference sources were as follows:

- The National Criminal Justice Reference Services (NCJRS) provided abstracts of publications appearing between 1967 and 1977 on the processing of status offenders in the juvenile justice system. NCJRS maintains an automated system of references, which was activated on keywords.
- The Information Center of the National Council on Crime and Delinquency contributed a bibliography on status offenders, containing entries that had been drawn from their manual files. The NCCD bibliography only partially overlapped the NCJRS printout.

- The National Center for Juvenile Justice's KINDEX publication proved to be an invaluable guide to all aspects of legal literature concerning children.
- Library research, as in any research project, received a great deal of attention and yielded valuable information that was not available from any reference digests. In addition to the card catalog, the following reference sources were consulted for articles on the processing of status offenders appearing since 1966: the International Bibliography on Crime and Delinquency/Crime and Delinquency Abstracts; the Criminology Index; the Social Science Citation Index; the Index to Periodicals in the Social Sciences; and the Bulletin of the Public Affairs Information Service.

Standards and Goals

A preliminary analysis was made of reports on standards and goals and model acts for the juvenile justice system as they relate to status offenders. These standards were analyzed in terms of four issues: jurisdiction; detention/shelter care; adjudication; and disposition. The value of these documents is twofold: first, their recommendations provide an indication of developing trends in the juvenile justice area. Second, the rationales behind the recommendations are a guide to current thinking and relevant research on the status offender. The sources analyzed are as follows:

- The Institute for Judicial Administration/American Bar Association Juvenile Justice Standards Project: Noncriminal Misbehavior (1977).
- The National Advisory Committee Task Force Report on Juvenile Justice and Delinquency Prevention (1976).
- Report of the Advisory Committee to the Administration on Standards for the Administration of Juvenile Justice (September 30, 1976).
- Pennsylvania Status Offender Report, The Juvenile Status Offender and the Law (1977).

Special Program Information

A particularly valuable source of information on program evaluation was prepared by the National Science Foundation by the George Peabody College for Teachers, Juvenile Delinquency Prevention Programs. The study's summary and findings on research, evaluation, and policymaking in relation to delinquency prevention programs and delinquency reduction provided useful information.

Other Contacts

Final mention should be made of the extensive personal contacts that constituted an important part of our information gathering efforts. Anyone involved with research is aware of the informal information network that exists within research communities, which by keeping one abreast of research efforts in other areas, can lead to new sources of data, inclusion of corroborative (or critical) findings, and an avoidance of redundancy. In the status offender area particularly, research efforts are currently being conducted all over the country. In most cases, the projects and organizations contacted were of such recent origin that no data were available. A sample of contacts is presented below to give an indication of the breadth of the data-gathering effort, and to alert the reader to valuable future sources of information on status offenders.

- The Social Science Research Institute at the University of Southern California is operating two major projects in the status offender area. The first is a national evaluation of the U.S. Office of Juvenile Justice and Delinquency Prevention's Deinstitutionalization of Status Offenders Program (94). The second, in collaboration with the California Youth Authority, is an assessment of the impact of California's DSO legislation (A.B. 3121, 1976). No findings are yet available from either project.
- The U.S. Government Accounting Office was queried regarding a study, expected in early 1978, on the progress of the States toward the deinstitutionalization of status offenders.*

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*A preliminary summary of the report was released on September 27, 1977 (see 98).

- Contact was maintained with other Assessment Centers, particularly the Alternatives Center at the University of Chicago, both by telephone and at coordination meetings.
- Information and publications were received from OJJDP's three technical assistance contractors: Arthur D. Little, Inc. (53)*, the National Clearinghouse for Criminal Justice Planning and Architecture, and the National Office for Social Responsibility.
- Dr. Rosemary Sarri, Project Co-Director of the National Assessment of Juvenile Corrections, was consulted regarding NAJC data held by the Social Welfare History Archives at the University of Minnesota.
- The Center for Knowledge in Criminal Justice Planning (Robert Martinson, Director; Judith Wilks, Assistant Director) was contacted for information on their related research.
- The staff of the U.S. Senate Subcommittee on Juvenile Delinquency was contacted for hearing reports and other information regarding status offender legislation.
- Finally, many helpful conversations were held with State and jurisdictional juvenile justice planners, with program planners, and with organizations such as the National Association of State Criminal Justice Planning Administrators, the National Assembly of National Voluntary Health and Social Welfare Organizations, and the National Association of Compact Administrators.

A simple procedure was established to assure the acquisition and maintenance of a useful literature file. As references were received by any member of the research team, they were committed to cards in standard bibliographic form and filed alphabetically by author. In the early phases of the research, publications were routinely obtained, either from the library or the publisher, as they entered the files. As the research progressed and literature needs became more specific and urgent, it was possible to give priority to obtaining certain items. In either case, cards were annotated when an item was sent for and received. At present, the bibliography contains approximately 1,000 items, approximately 600 of which are on hand.

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*This report arrived during the final stages of the report (December 1977); however, their major findings and conclusions were utilized as well as some of their supportive data.

The results of the literature search can be briefly assessed. This summary, as well as reflections on the literature contained in the body of the report, will give an indication of the ways the literature was used and serve as a guide to future researchers in the status offender area. Items are organized below by type of document, and some comments are presented about their value and utilization.

- Research items include both original empirical research and secondary analyses. Very little research appears to have been done specifically on status offenders, particularly in terms of characteristics or needs assessment. More valuable was the growing body of research on the juvenile justice system itself, which was useful in identifying issues of decision-making in the various components of the system. It is apparent that any comprehensive assessment of the handling of status offenders must have recourse to further research focusing on the response of the system to policy innovations.
- Legal articles which focus on the status offender issue, often in relation to more general issues of children's rights, have been increasing in numbers in recent years. In many cases, articles appearing in legal journals incorporate results of empirical research. Conspicuous issues discussed in the legal literature include: the impact of Persons In Need of Supervision (PINS) legislation on the handling of status offenders; abuses of juvenile court jurisdiction over cases of noncriminal misbehavior; and the implications of appellate court decisions in delinquency cases for status offense cases.
- Government and agency publications comprise a wide range of public documents on various aspects of the status offender issue. In a few cases, this literature presents significant findings from reliable research and evaluation studies.

Primarily, however, documents issuing from Federal, State and local law enforcement and program sources are valuable as artifacts of the policymaking process.

- Position papers issued by professional and voluntary organizations that are involved in some aspects of the juvenile justice system--e.g., the National Council of Juvenile Court Judges, the National Council of Jewish Women (14; 13; 65), and the National Council on Crime and Delinquency (112, pp. 91-122)--are increasingly devoted to the debate over status offenders. Like government and agency publications, these papers are seldom based on scientific research, but can often be guides to significant issues in the field, promising program trends, and political positions taken by influential professional and community groups.

ANALYSIS OF DATA

Limitations of the Data

As mentioned before, limitations both on project goals and on the availability of useful data on status offenders created a dependency on the limited extant information that could be obtained from the field. In each subject area of this report, the generally poor quality of available information imposed two major limitations on analysis.

In the first place, the difficulty in predicting where valuable data lay made it impossible to be initially selective about the areas to be investigated. Hence the scope of the preliminary analysis had to be kept broad and all-inclusive. This meant, for instance, that the process discussion could only be structured after all available statistics had been gathered and scrutinized, and that the programs chapter could not address significant issues until the outlines of the broad range of specific status offender program types had been established.

The second and concomitant constraint is that of limited depth. Limited availability of time, resources and data prevented a through investigation of status offender processing in any single jurisdiction or State, comparative analysis of programs, or detailed discussion of legislation trends nationwide. The objective of the analysis, then, is not to provide definitive answers to a set of questions that have been refined by previous research and theory. It is rather to begin preliminary formulation of the questions themselves, and to suggest promising directions for future inquiry and Federal program policy.

Analytical Technique

An inductive approach proved to be the technique best suited to the exploratory nature of the research. This method is perhaps best understood in contrast to deductive methods with clear hypotheses and rigorous controls that are the rule in more narrowly focused research. It was the decision to let the major phenomenon under investigation--the status offender and the juvenile justice system--define itself through the data. In discussing each step in the procedure, the substance of this method will be related to the major subject areas in the report. The procedure was as follows:

1. Array data -- The first step involved getting an overview of all the information on hand. Incoming data were sorted into process, programs and statutes categories and reviewed. In the process area, for example, review consisted of extracting and labeling all available statistical tables on the handling of status offenders.
2. Construct conceptual categories -- At this stage, data were organized into categories that are emergent from the data themselves. The point here is to preserve the intent of the collecting agency as an element of the data, to avoid losing sight of the fact that the data were collected for purposes other than research. The integrity of the categories that are constructed at this stage is absolutely dependent on the thoroughness of the previous review process.

   Rather than approaching the statistical data as one might primary survey data, with the intent of testing hypotheses, they were approached as by-products of a multi-faceted organizational process. Police, courts, probation agencies and correctional agencies collect statistics for a variety of reasons--to facilitate planning, to maintain funding, or to achieve public legitimacy--that can lead to distortions and omissions when the data are uncritically used for research. Thus the procedure, as detailed below, was to organize the data by system component, and to use them as tentative indicators of system behavior, and not as indicators of the behavior of juveniles.

3. Make preliminary comparative assessment -- The ideal culmination of an inductive analysis is the comparison of the categories that have been constructed in terms of certain key variables. While it would be productive, for example, to examine the variations in the treatment of status offenders among agencies of the juvenile justice system, among the states, or at points before and after the passage of the 1974 Act; or to compare program types in terms of outcome, it was beyond the scope of this assessment to do so. On the other hand, a great deal of painstaking effort was devoted to analyzing the data, to separating significant from insignificant or compromised findings, and to searching the literature for clues to the meaning of the data under investigation. Methodological notes were made throughout the analysis; for example, of the context in which statistics were presented and its subsequent limitations.

SUMMARY: THE PRELIMINARY NATURE OF THE ASSESSMENT

To restate briefly, the method of analysis consisted of gathering the sparse information that was available; organizing it in a fashion that regarded not only the processing of the status offender, but also the data collection process, as problematic and worthy of inquiry; and structuring the findings to respect the limitations of the data in order to present valid issues for further research and policy formulation.

Based upon all the foregoing caveats, this report should be considered as highly exploratory and preliminary. It would be more satisfying if a definitive solution to the status offender "problem" could be reported. Such is not the case, however. This assessment has reviewed the problem as thoroughly as possible within present constraints, and has subsequently pointed the way toward a reconsideration of the needs of the status offender and the juvenile justice system.

APPENDIX C
REFERENCES

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REFERENCES

BOOKS

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